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**TABLE 1 -- Voter ID Requirements**

State	Forms of ID Required 2004	Current ID Requirement for First-Time Voters	Current ID Requirements for All Other Voters	Verification Method for Provisional Ballots
Alabama	Provide ID	Provide ID	Provide ID	Address & Registration
Alaska	Provide ID	Provide ID	Provide ID	Signature
Arizona	Provide ID	Gov-issued Photo ID	Gov-issued Photo ID*	Address & Registration
Arkansas	Provide ID	Provide ID	Provide ID	Address & Registration
California	Sign Name	Sign Name	Sign Name	Signature
Colorado	Provide ID	Provide ID	Provide ID	Address & Registration
Connecticut	Provide ID	Provide ID	Provide ID	Affidavit
Delaware	Provide ID	Provide ID	Provide ID	Affidavit
D.C.	Sign Name	HAVA**	Sign Name	Address & Registration
Florida	Photo ID^	Photo ID	Photo ID^	Signature
Georgia	Provide ID	Gov. Issued Photo ID**	Gov. Issued Photo ID**	Affidavit
Hawaii	Photo ID^^	Photo ID	Photo ID^^	Affidavit
Idaho	Sign Name	HAVA	Sign Name	EDR
Illinois	Match Sig.	HAVA	Match Sig.	Affidavit
Indiana	Sign Name	Gov. Issued Photo ID	Gov. Issued Photo ID	Bring ID Later
Iowa	Sign Name	HAVA	Sign Name	Bring ID Later
Kansas	Sign Name	Sign Name	Sign Name	Bring ID Later
Kentucky	Provide ID	Provide ID	Provide ID	Affidavit
Louisiana	Photo ID^	Photo ID	Photo ID^	DOB and Address
Maine	Give Name	HAVA	Give Name	EDR
Maryland	Sign Name	HAVA	Sign Name	Bring ID Later
Mass.	Give Name	HAVA	Give Name	Affidavit
Michigan	Sign Name	HAVA	Sign Name	Bring ID Later
Minnesota	Sign Name	HAVA	Sign Name	EDR
Mississippi	Sign Name	HAVA	Sign Name	Affidavit
Missouri	Provide ID	HAVA	Provide ID	Address & Registration
Montana	Provide ID	HAVA	Provide ID	Bring ID Later
Nebraska	Sign Name	HAVA	Sign Name	Affidavit
Nevada	Match Sig.	HAVA	Match Sig.	Affidavit
NH	Give Name	HAVA	Give Name	EDR
New Jersey	Match Sig.	HAVA	Match Sig.	Bring ID Later
New Mexico	Sign Name	Provide ID	Provide ID	Bring ID Later
New York	Match Sig.	HAVA	Match Sig.	Affidavit
North Carolina	Give Name	HAVA	Give Name	Varies
North Dakota	Provide ID	Provide ID	Provide ID	No Registration
Ohio	Match Sig.	Provide ID	Provide ID	Address & Registration
Oklahoma	Sign Name	HAVA	Sign Name	Address & Registration
Oregon	Match Sig.	HAVA	Match Sig.	Signature
Penn.	Match Sig.	HAVA****	Match Sig.	Address & Registration
Rhode Island	Give Name	HAVA	Give Name	Address & Registration
South Carolina	Photo ID^^	Photo ID	Photo ID^^	Address & Registration
South Dakota	Photo ID^^	Photo ID	Photo ID^^	Affidavit
Tennessee	Provide ID	Provide ID*****	Provide ID	Affidavit
Texas	Provide ID	Provide ID*****	Provide ID	Bring ID Later

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Utah	Give Name	HAVA	Give Name	Bring ID Later
Vermont	Give Name	HAVA	Give Name	Affidavit
Virginia	Provide ID	HAVA	Provide ID	Affidavit
Washington	Sign Name	Provide ID	Provide ID	Address & Registration
West Virginia	Match Sig.	HAVA	Match Sig.	Address & Registration
Wisconsin	Give Name	HAVA	Give Name	Bring ID Later
Wyoming	Give Name	HAVA	Give Name	Affidavit

^In Florida and Louisiana, states that required a photo id in 2004, voters without that credential could sign an affidavit concerning their identity and eligibility and cast a regular ballot.

^^In these states in 2004, voters lacking a photo ID could vote by providing other ID.

\*Arizona voters who lack a photo ID may present 2 forms of ID with no photograph, such as 2 utility bills.

\*\*State only requires ID for first-time voters who register by mail without providing ID. They accept all forms of ID listed in the statute.

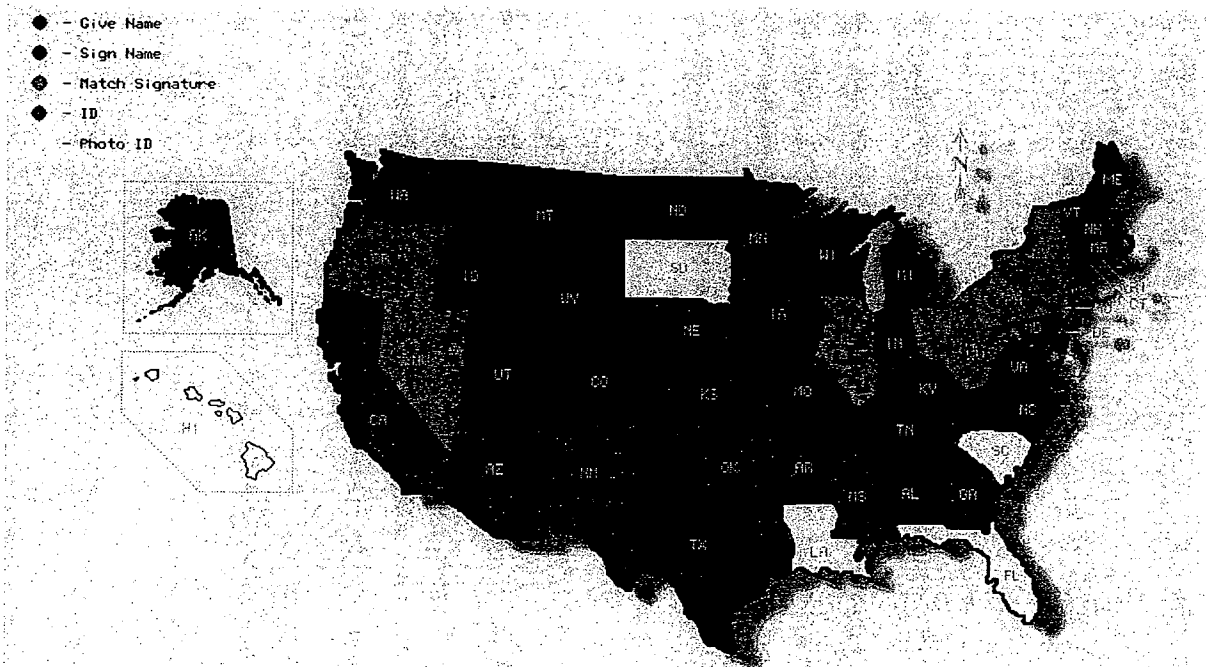
\*\*\*Georgia is currently enjoined from implementing this law, returning them for the time being to their 2004 requirement of provide ID.

\*\*\*\*Pennsylvania requires ID of all first-time voters, whether they registered by mail or in-person.

\*\*\*\*\*Tennessee voters must provide signature and address. In counties without computerized lists, the signature is compare to the registration card. In counties with computerized lists, the signature is compared to a signature on ID presented with registration.

\*\*\*\*\*Texas voters must present a current registration certificate. Those without a certificate can vote provisionally after completing an affidavit.

**Figure 1**



**Voter ID Requirements 2004**

Since it is not practical to attempt to capture the wide variety of how voter ID requirements are actually implemented across the nation's tens of thousands of polling places, the analysis of the effect of state requirements on county-level turnout must be viewed with some caution.

Effect of Voter ID requirements on Turnout

We categorized each state according to its voter ID requirements in 2004, as shown in Table 1 and analyzed turnout data for each county according to the voter identification requirements of its state. We also assessed self-reported turnout by the sample interviewed in the November 2004 Current Population Survey of the Census Bureau.<sup>14</sup>

Voter turnout at the state level in 2004 varied based on voter identification requirements. An average of 63.1 percent of the voting age population turned out in states that required voters to state their names, compared to 57.3 percent in states that required photo identification. Other factors, of course, also influence turnout. Taking those other factors into account in the county-level analysis makes the effect of the voter ID requirement less dramatic. But the analysis still offers some support for the hypothesis that as the burden of voter identification requirements increases, turnout declines. The effect is particularly noticeable in counties with concentrations of Hispanic residents or of people living below the poverty line.

The individual-level analysis, based on the CPS, produced a similar result. Voter identification requirements exert a statistically significant, negative effect on whether survey respondents said they had voted in 2004. The probability that a respondent to the survey voted dropped with each level of voter identification requirement, with a total drop of 2.5 percent across the five types of identification.

Future policy decisions should consider the tradeoffs between the incidence of vote fraud that can be prevented by stricter voter ID requirements and the number of eligible voters who will be kept from the polls by those stricter ID requirements. Continuing research is needed to provide the information to inform this calculation of benefits and costs.

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<sup>14</sup> See Appendix \_\_\_\_ for the full report on voter ID and turnout.

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### Methods and Findings

We classified each state as having one of five types of identification requirements in place on Election Day 2004. Upon arrival at polling places, voters had to either: state their names (9 states); sign their names (13 states and the District of Columbia); match their signature to a signature on file with the local election board (8 states); provide a form of identification that did not necessarily include a photo (15 states); or provide a photo identification (5 states). We then tested the assumption that voter identification requirements would prove to be increasingly demanding on the voter, with providing photo ID the most rigorous.

The analysis recognized that election laws in numerous states offer exceptions to these requirements if a prospective voter lacked the ID. Laws in those states set a minimum standard that a voter must meet in order to vote using a regular ballot. We therefore also categorized states based on the minimum requirement for voting with a regular ballot. None of the states required photo identification as a minimum standard for voting with a regular ballot. Four states, however, required voters to swear an affidavit as to their identity (Florida, Indiana, Louisiana, and North Dakota). The five categories for minimum requirements were: state name (12 states), sign name (14 states and the District of Columbia), match one's signature to a signature on file (six states), provide a non-photo identification (14 states), or swear an affidavit (four states). This analysis treats the array of minimum identification requirements also in terms of increasing demand on the voter: state name, sign name, match signature, provide non-photo identification, and, given the potential legal consequences for providing false information, swearing an affidavit is regarded as the most rigorous.

Voter turnout at the state level in 2004 declined as voter identification requirements became more demanding, as shown in Table 2. While the trend is not perfectly linear, there is a general movement toward lower turnout as requirements tend toward requiring greater levels of proof. Using the maximum requirements as the independent variable, an average of 63.1 percent of the voting age population turned out in states that required voters to state their names, compared to 57.3 percent in states that required photo identification. A similar trend emerged when using the minimum requirements as the independent variable. Sixty-one percent of the voting age population turned out in states requiring voters to state their names, compared to 58.7 percent in states that required an affidavit from voters.

**Table 2 – Variation in 2004 State Turnout Based on Voter Identification Requirements**

Maximum Requirement		Minimum Requirement	
Voter Identification Required in the States	Mean Voter Turnout for States in that Category	Voter Identification Required in the States	Mean Voter Turnout for States in that Category
State Name	63.1 %	State Name	61.3 %
Sign Name	58.6 %	Sign Name	60.4 %
Match Signature	62.1 %	Match Signature	59.2 %
Provide Non-Photo ID	57.8 %	Provide Non-Photo ID	57.6 %
Provide Photo ID	57.3 %	Swear Affidavit	58.7 %
Average Turnout (All States)	59.6 %		

Voter identification requirements alone do not determine voter turnout. Other influences – demographic or political-- also affect voter participation. Multivariate models that take into account other predictors can place the effects of voter identification in a more accurate context. The multivariate analysis included whether the county was in a presidential battleground state or a state with a competitive race for governor or the U.S. Senate. Demographic variables included the percentage of the voting-age population in each county that was Hispanic or African-American, the percentage of county residents age 65 and older, and the percentage of the county population living below the poverty line. The dependent variable in each model was voter turnout at the county level, with turnout calculated as the percentage of the voting-age population that voted in the 2004 election.

The aggregate analysis for the maximum identification requirements revealed a small and negative effect on turnout in 2004 controlling for electoral context and demographic factors. If the state was a battleground voter turnout increased. As the percentage of senior citizens in the county increased, so did turnout. The percentage of African-Americans in the county had no effect, but the percentage of Hispanic adults reduced voter turnout, as did the percentage of individuals living below the poverty line. In general, analysis of the aggregate data at the county level provides some support for the hypothesis that as the burden of voter identification requirements increases, turnout declines, at least in the case of the maximum requirements. The decline in turnout is particularly noticeable in counties with concentrations of Hispanic residents or individuals who live below the poverty line. Determining if the reduction in turnout is, in fact, among the Hispanic or poor residents of those counties requires further research at the individual level.

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Information collected for the Census Bureau Current Population Survey in November 2004 makes it possible to examine the influence of voter ID requirements at the individual level. Self-identified registered voters reported their experience at the polls in the survey. Note that the voter turnout rate for the CPS sample, an average of 89%, is much higher than the turnout rates presented in the aggregate data analysis, which average 58%. The difference is a result of several factors, including different denominators in calculating the turnout rate – self-reported registered voters in the CPS versus the much larger voting-age population for the aggregate data. Also some survey respondents overstate their incidence of voting. Nevertheless, the CPS serves as a widely accepted source of data on voting behavior.

The dependent variable in the individual analyses is whether respondents said they voted in the 2004 election. As in the aggregate analysis the contextual variables consist of whether the state was a battleground state or had competitive state-level races. The analysis also controlled for gender, age, education, household income, race or ethnicity, and employment status, marital status, and residential mobility.

The analysis revealed that voter identification requirements exerted a statistically significant, negative effect on whether survey respondents said they had voted in 2004. Of the other state factors, only the competitiveness of the presidential race had a significant effect on turnout. In terms of demographic influences, consistent with previous research, age, education, income, and marital status all were positive predictors of voting. Women also were more likely to say they voted than men. Those who had moved within six months before the interview were less likely to say they had voted.

Allowing the voter identification requirement to vary while holding constant all other variables in the model showed that the predicted probability of turnout ranged from 91.2 percent if all voters had to state their names to 88.7 percent if all voters had to provide photo identification. (Note that these turnout figures are higher than actual because of the factors involved in the CPS's self-reported survey, but that the difference in effect is reasonably related to the results obtained in the aggregate analysis.) In other words, the probability of voting dropped with each level of the maximum voter identification requirement, with a total drop of 2.5 percent across the five types of identification. When taking into account the minimum requirement for identification, the probability showed a similar decline, with a slightly larger total drop of 3.3 percent.

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Both the maximum and minimum identification requirements had negative and statistically significant effects for white voters. Allowing the requirements to vary from stating one's name to providing photo identification or an affidavit showed drops of 2.5 percent and 3.3 percent respectively in the predicted probability of voting. The identification requirements had no effect on the probability of African-Americans voting, but the minimum identification requirements had a comparatively sizable effect on voter turnout among Hispanics. The predicted probability of Hispanics voting ranged from 87 percent if stating one's name would be the required form of identification to 77.3 percent if a voter would have to provide an affidavit in order to vote, a difference of 9.7 percent. Variation also emerged along the lines of income, with the effects of voter identification requirements varying to a greater extent for voters in households below the poverty line compared to those living above the poverty line.

Registered voters who had less than a high school education had a 77.5 percent probability of voting if the maximum requirement would be stating one's name, and a 70.8 percent probability if they would have to provide photo identification under the maximum requirement, a difference of 6.7 percent. The range of effects of voter identification requirements was smaller among those with higher levels of education (and non-existent for one category – voters with some college education).

### Discussion and Conclusions of the Analysis

The results give evidence that tougher voter identification requirements are associated with a decline in voter participation. The overall effect for all registered voters was fairly small, but even a slight decline in turnout has the potential to alter the outcome of a close election. The decline is apparent in both the aggregate data and the individual-level data, although not always for both the maximum and minimum sets of requirements.

- Hispanic voters and the poor appear to be less likely to vote if the level of required identification becomes more demanding, according to both the aggregate and the individual-level data. In the individual-level data, for Hispanic voters, the probability of voting dropped by 9.7 percent across the various levels of minimum identification requirements. Survey respondents living in poor households would be 5.3 percent less likely to vote as the requirements vary from stating one's name to attesting to one's identity in an affidavit.

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- Self-reported registered voters who had not graduated from high school would be 6.7 percent less likely to vote if the maximum requirement is photo identification as opposed to stating one's name. When considering the minimum requirements, those with less than a high school education would be 7.4 percent less likely to say they voted if the requirement was an affidavit as opposed to stating one's name.
- Age was also a key factor, with voters ages 18 to 24 being 7.7 percent to 8.9 percent less likely to vote as the requirements ranged from stating one's name to providing a photo identification or affidavit.
- Two concerns aired by critics of voter identification requirements were not borne out by the results. African-American voters did not appear to be affected by voter identification requirements, according to both the aggregate data and individual-level data analyses. Also, the self-reports of elderly voters, while indicating that they would be slightly less likely to vote as ID requirements become stricter, do not show a dramatic effect.

The data examined in this analysis could not capture the dynamics of how identification requirements lower turnout. Do know the voter ID and stay away from the polls because they cannot or do not want to meet them? Or, do the requirements result in some voters being turned away when they cannot meet the requirements on Election Day? The CPS data do not include measures that can answer these questions, pointing up the need for collection of additional data. Knowing more about the "on the ground" experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements. Such knowledge also could help in designing training for poll workers to handle questions about, and potential disputes over, voter identification requirements.

It is important to note that the 2004 data do not allow us to draw conclusions about the effect of laws such as those recently passed in Georgia and Indiana, which require government-issued photo ID. No such laws were in place in 2004, and the five states that then required photo ID at the time allowed voters who signed an affidavit or provided another form of identification to cast a regular ballot.



### Litigation Over Voter ID Requirements

A handful of cases have challenged identification requirements in court in recent years. In general, requirements that voters provide some identifying documentation have been upheld, where photo ID is *not* the only acceptable form. Whether laws requiring photo ID will be upheld is more doubtful. To date, only one court has considered a law requiring voters to show photo ID (*Common Cause v. Billups*), and that court concluded that this requirement is likely unconstitutional. Cases challenging the mandatory disclosure of voters' Social Security numbers on privacy grounds have yielded mixed results.

*Non-photo identification.* For the most part, courts have looked favorably on requirements that voters present some form of identifying documents if the photo identification is not the only form accepted. In *Colorado Common Cause v. Davidson*, No. 04CV7709, 2004 WL 2360485, at \*1 (Colo. Dist. Ct. Oct. 18, 2004), plaintiffs challenged a law requiring all in-person voters to show identification (not just first-time registrants). The court upheld this requirement against a constitutional challenge. Similarly, in *League of Women Voters v. Blackwell*, 340 F. Supp. 2d 823 (N.D. Ohio 2004), the court rejected a challenge to an Ohio directive requiring first-time voters who registered by mail to provide one of the HAVA-permitted forms of identification, in order to have their provisional ballots counted. Specifically, the directive provided that their provisional ballots would be counted if the voter (a) orally recited his driver's license number or the last four digits of his social security number or (b) returned to the polling place before it closed with some acceptable identification (including reciting those identification numbers). *Id.* This was found to be consistent with HAVA.

*Photo ID.* Since the 2004 election, two states have adopted laws requiring photo identification in order to have one's vote counted, without an affidavit exception: Georgia and Indiana. Both these requirements were enacted in 2005 and both have been challenged in court. The Georgia law required voters attempting to cast a ballot in person present a valid form of photographic identification. O.C.G.A. § 21-2-417. On October 18, 2005, the District Court granted the Plaintiff's motion for a preliminary injunction, enjoining the application of the new identification requirements on constitutional grounds. In granting the injunction, the court held that plaintiffs' claims under both the Fourteenth Amendment (equal protection) and Twenty-Fourth Amendment (poll tax) had a substantial likelihood of succeeding on the merits at trial (*Common Cause v. Billups*,

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Prelim. Inj. 96, 104). In January 2006, Georgia enacted a modified version of its photo ID law, which the court has not yet ruled on. In the other state that has enacted a photo ID requirement without an affidavit exception (Indiana), legal challenges have also been filed. (*Indiana Democratic Party v. Rokita* and *Crawford v. Marion County Election Board*). Cross-motions for summary judgment are currently pending. Another case of significance, for purposes of photo ID requirements, is *American Civil Liberties Union of Minnesota v. Kiffmeyer*, No. 04-CV-4653, 2004 WL 2428690, at \*1 (D. Minn. Oct. 28, 2004). In that case, the court enjoined a Minnesota law that allowed the use of tribal photo ID cards, only for an Indian who lived on the reservation. 2004 WL 2428690, at \*1. The Court found no rational basis for distinguishing based on whether or not the cardholder lives on the reservation. *Id.* at \*1, 3. The court's decision in this case indicates that courts are likely to look strictly on photo ID requirements.

*Privacy.* In *Greidinger v. Davis*, 988 F.2d 1344 (4th Cir. 1993), the court struck down on due process grounds a Virginia law requiring disclosure of voters' social security numbers for voter registration. The social security numbers recorded in voter registration lists had been disclosed to the public and political parties that had requested the lists. The court found that the requirement to give the social security number effectively conditioned rights on the consent to an invasion of privacy. It concluded that this public disclosure of the social security numbers was not necessary to achieve the government's interest in preventing fraud. On the other hand, in *McKay v. Thompson*, 226 F.3d 752 (6th Cir. 2000), the court rejected privacy challenges based on both the Constitution and federal statutes, to a Tennessee law requiring social security numbers for voter registration since 1972. 226 F.3d at 755. Second, the NVRA only permits requiring the minimum amount of information necessary to prevent duplicate voter registration and to determine eligibility. The distinction appears to be between the use of Social Security numbers for internal purposes only, which was deemed permissible, and the disclosure of those numbers to the public which was not.

These decisions suggest that the courts will look strictly at requirements that voters produce a photo ID in order to cast a regular ballot. The courts have used a balancing test to weigh the legitimate interest in preventing election fraud against the citizen's right to privacy (protecting social security numbers from public disclosure, for example) and the reasonableness of requirements for identity documents. To provide both the clarity and certainty in administration of elections needed to forestall destabilizing challenges to outcomes, these early decisions

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suggest that best practice may be to limit requirements for voter identification to the minimum needed to prevent duplicate registration and ensure eligibility.

### **Developments since 2004**

Since the passage of HAVA, with its limited requirements for voter identification, and following the 2004 election, debate over voter ID has taken place in state legislatures across the country. That debate has not been characterized by solid information on the consequences of tightening requirements for voters to identify themselves before being permitted to cast a regular, rather than a provisional, ballot.

Better information might improve the quality of the debate. Answers to the following key questions are not available in a form that might satisfy those on both sides of the argument.

- What is the overall incidence of vote fraud?
- How does fraud take place in the various stage of the process: registration, voting at the polls, absentee voting, or ballot counting?
- What contribution can tighter requirements for voter ID make to reducing vote fraud?
- What would be the other consequences of increasingly demanding requirements for voters to identify themselves? This is the question addressed, within the limits of the available data, in the analysis in this report.

Answering these questions would provide the information needed for more informed judgment in the states as they consider the tradeoffs among the competing goals of ballot integrity, ballot access, and administrative efficiency. The Carter-Baker Commission recognized the tradeoffs when it tied recommendation for national ID to an affirmative effort by government to identify unregistered voters and make it easy for them to register.

### **State Voter Databases and Voter ID**

With the implementation of the HAVA Computerized Statewide Voter Registration List, an application for voter registration for an election for Federal office may not be accepted or processed unless the application includes a driver's license number or last four digits of the Social Security number on the voter registration form. This information can be used to verify the identity of the registrant through interfacing with lists maintained by the Motor Vehicle office and Social Security office. If registrants do not have either a driver's license or Social Security number, the State will assign a unique identifier number to that person.

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HAVA does not require that the states notify registrants to remedy any failure to provide either of these numbers or to confirm that they have provided a verifiable number. Verification at the time of registration could forestall difficulties at the polling place. HAVA is silent on how the ID might be required at the polling place for new voters whose driving license or Social Security number could not be verified. Errors in recording those numbers are sure to occur.

Some states are wrestling now with these unresolved issues. In New Jersey, for example, pending legislation would require that voters must be able to confirm their registration through a secure access to the SVRL. It also requires voters to present ID at the polls in order to cast a regular ballot if the numbers recorded on the registration have not been verified (or if no verifiable number appears on the registration). It recognizes the HAVA requirement that if the number provided by the voter has not been verified and if the voter does not present ID at the polls, that voter may cast a provisional ballot. The bill does not specify they have to provide ID within 48 hours in order for their vote to count, as is the case with first-time mail-in registrants.

As some states gain experience in this area, the EAC would perform a useful service by making timely recommendations of best practices for all states to consider.

### 6. Conclusions

The form of Voter ID required of voters affects turnout. Lack of ID can keep voters from the polls. Or, when they go to the polls, it is reasonable to conclude that stricter Voter ID requirements will divert more voters into the line for provisional ballots. (This conclusion is a conjecture because we lack good data on why voters must cast their ballots provisionally.) The result can be longer lines at the polls and confusion, without a clear demonstration that the security of the ballot is correspondingly increased.<sup>15</sup>

The dynamics of Voter ID requirements—how the more rigorous Voter ID requirements—affect the decision by potential voters to go or stay away from the polls are not well understood. This lack of understanding should be recognized in the policy process. The debate over voter ID in

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<sup>15</sup> In this connection, the Brennan Center's response to the Carter-Baker Commission report observes that, "while it might be true that in a close election "a small amount of fraud could make the margin of difference," it is equally true that the rejection of a much larger number of eligible voters could make a much bigger difference in the outcome." *Response to the Report of the 2005 Commission on Federal Election Reform*, The Brennan Center for Justice at NYU School of Law and Spencer Overton, On Behalf Of The National Network on State Election Reform, September 19, 2005

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the states would be improved by additional research sponsored by the EAC. So far as it may be necessary to reduce vote fraud made possible by inadequate voter ID, the research could identify methods to eliminate the need for voters to bring specific identity documents with them to the polls while assuring that each voter who casts a ballot is eligible and votes only once. One way to break the connection between the benefits of photo ID and the need for the voter to bring identification to the polling place, as recommended elsewhere by one of the authors of this report, Edward Foley: keep the information to verify a voter's identity in the records at the polling place. Other approaches could be developed.<sup>16</sup>

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<sup>16</sup> "A potential solution to this problem is to break the connection with the photo requirement and the obligation to produce identification at the polls. Eligible citizens could be required to provide a photograph at the time they *register* to vote, and poll workers would match this photograph with the image of the person standing in front of them. Given the availability of digital photography, the photos of registered voters could be stored in electronic poll books and easily "pulled up" with a click of a computer mouse when voters sign in to vote. . . Of course, to satisfy the concerns of liberals, a requirement to provide a digital photograph at time of registration would have to address the cost and accessibility issues identified earlier. "

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### **Appendices**

- a. Summary of case law on Voter ID issues (included with this draft)
- b. Analysis of Effects of Voter ID Requirements on Turnout (attached as a separate document)
- c. Indexed database of major articles on Voter ID Requirements and related topics (included with this draft)
- d. Compendium of states' legislation, procedures, and litigation

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### APPENDIX –Court Decisions and Literature on Voter Identification and Related Issues

#### Court Decisions

##### Summary of Relevant Cases:

##### Challenges Prevailed:

##### *American Civil Liberties Union of Minnesota v. Kiffmeyer*, 2004

- Action for temporary restraining order – granted
- Statute: allowed use of tribal identification cards w/ name, address & photo as a valid identification to register to vote only if the voter lives on the reservation to “complete” a mail-in application (which only affected about 600 voters w/ incomplete applications)
- Claim -14<sup>th</sup> Amendment EPC: likely to prevail, no rational basis for a distinction between Indians residing on reservations and those not
- Statute: may use certain forms of photo identification lacking address together with a utility bill but not tribal identification cards
- Claim -14<sup>th</sup> Amendment EPC: likely to prevail

##### *Greidinger v. Davis*, 1993

- Statute: mandated disclosure of SS # as a precondition to voter registration (rationale was voter identification, but the numbers were rarely used to verify identity & were disclosed in voter lists to both political parties and the public upon request)
- Claims:
  - 14<sup>th</sup> Amendment EPC: no classification (applied strict scrutiny)
  - Substantive due process: law invalid; found that the statute conditioned the fundamental right to vote on the consent to an invasion of privacy; this was found to be a substantial burden (applied strict scrutiny)
    - Compelling interests: preventing voter fraud (deemed compelling)
    - Necessary: fails, preventing voter fraud when allowing names for inspection could be achieved by supplying addresses and DOBs or use of voter registration numbers
    - HOWEVER: Court also made it clear that if the registration scheme kept the SS# for internal use only – it would be valid

##### Challenges Rejected:

##### *League of Women Voters v. Blackwell*, 2004.

- Sec. of State Directive: provisional ballots issued if first-time voter, who registered by mail and did not provide ID, cannot produce proper ID at the polls AND that the provisional ballot will only be counted if the voter returns to the poll before it closes w/ ID or can recite SS# or DL#
- Claims – Supremacy Clause & HAVA: ruled that HAVA did not specify how the first-time voters' identifications should be verified and this method was not unreasonable or too burdensome

##### *Colorado Common Clause v. Davidson*, 2004

- Statute: required all voters to show ID (most types permitted) before voting
- Claims:
  - HAVA: ruled that HAVA did not preempt more strict state laws & allowed States to be more strict as long as consistent with the purpose of HAVA (both HAVA & CO provisions' purposes were to prevent voter fraud)
  - Substantive due process and equal protection
    - No improper discrimination

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- Preventing voter fraud is a compelling interest since it is irreversible once vote is cast
- Only marginally more intrusive than HAVA, many types of identification permitted – thus, valid

### *McKay v. Thompson, 2000*

- Statute: mandated disclosure of SS # as a precondition to voter registration
- Claims:
  - Privacy Act, Section 7: ruled that Tennessee voter system exempt from Privacy Act because it is pre-75
  - NVRA, permitting only min. amt. of info. necessary to prevent duplicate registration and determine eligibility: ruled that NVRA does not specifically forbid the use of SS#s & the Privacy Act specifically permits them pre-75
  - Substantive due process: ruled that internal use of SS# not a burden
  - Free Exercise, based on Bible's supposed prohibition on use of universal identifiers: ruled that law is generally applicable and thus valid
  - P&I, Article IV: does not protect in-state citizens
  - P&I, 14<sup>th</sup> Amend.: no protection for privilege where Congress authorized its infringement

### *Kemp v. Tucker, 1975*

- Statute: required name, occupation, address, sex, race, height, hair color, eye color, and date of birth be listed on voter registration card for identification purposes
- Claims:
  - VRA: ruled that race was not made a "qualification" for voting
  - 15<sup>th</sup> Amendment: ruled that it did not abridge right to vote on account of race because rejection of application was due to failure to provide information, not race; race only one factor in identification
  - 14<sup>th</sup> Amendment EPC: ruled there was no distinction among voters

### *Perez v. Riddlehoover, 1966*

- Statute: date of birth, place of birth, mother's first or maiden name, color of eyes, sex, race, occupation, and whether owner, tenant or boarder must appear on the registration for identification
- Claims:
  - VRA: ruled that it was not a "test or device" because it applied equally
  - 15<sup>th</sup> Amendment: same reasons

### **Cases in Which the Plaintiffs Have Prevailed in Challenging the Statute Requiring Voter Identification:**

#### ***American Civil Liberties Union of Minnesota v. Kiffmeyer, No. 04-CV-4653, 2004 WL 2428690, at \*1 (D. Minn. Oct. 28, 2004).***

This was an action just before the November 2004 election for a temporary restraining order, which was granted. The ACLU challenged a Minnesota law allowing the use of tribal identification cards with the name, address, and photograph as a valid identification (equal to a driver's license) for use in "completing" an incomplete mail-in voter registration only if the Indian lives on the reservation. 2004 WL 2428690, at \*1. The Court ruled that this distinction would likely violate the Equal Protection Clause because there was no rational basis for differentiating



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between the validity of the identification based on whether or not the cardholder lives on the reservation. *Id.* at \*1, 3.

Secondly, the ACLU challenged a second statute which allowed the use of certain photo identification lacking the voter's address to be used together with a utility bill or bank statement as valid identification for registration. *Id.* at \*3. The statute did not, however, permit using a tribal identification for this same purpose. *Id.* The Court ruled that this likely violated the equal protection clause as well. *Id.*

### ***Greidinger v. Davis*, 988 F.2d 1344 (4th Cir. 1993).**

This case challenged a Virginia law requiring the social security number for voter registration, which the State subsequently disclosed to the public and political parties upon request in voter registration lists, which included the social security numbers. Failure to provide the social security number resulted in the denial of the registration application. The law was challenged under the Equal Protection Clause and under substantive due process. The Court quickly rejected the equal protection challenge because the law made no classification. 988 F.2d at 1350.

The law was invalidated under substantive due process. *Id.* at 1355. The Court found that the statutory scheme conditioned the fundamental right to vote on the consent to an invasion of privacy, based on concerns of identity theft. *Id.* at 1353-54. The Court found this to be a substantial burden on the right to vote. *Id.* at 1354. The Court recognized that the government's interest in preventing voter fraud was compelling. *Id.* However, the Court found that disclosure of the information to the public and political parties was not necessary to achieve that interest. *Id.* Disclosure of addresses or dates of birth would be sufficient to aid the public in distinguishing between two voters with the same name. *Id.* at 1355. The Court did state that required disclosure of the social security number for internal use only would be valid. *Id.* at 1354 n.10.

### **Cases in Which the Statute or Practice of Voter Identification Has Been Upheld:**

#### ***League of Women Voters v. Blackwell*, 340 F. Supp. 2d 823 (N.D. Ohio 2004).**

The League of Women Voters challenged the Secretary of State's directive that provisional ballots should be issued to all first-time voters who registered by mail without providing identification who cannot show proper identification at the polls. 340 F. Supp. 2d at 828. The Directive also stated that the provisional ballots would only be counted if the voter orally recited his driver's license number or the last four digits of his social security number or returned to the polling place before it closed with some acceptable identification, including reciting those identification numbers. *Id.* The Court stated that HAVA only requires verification of eligibility of first time voters registering by mail; it does not say how that should be done. *Id.* at 831. The Court found the burden on the right to vote to be slight. *Id.* The Directive was found valid under HAVA and the Supremacy Clause because the number of uncounted votes would be small, the requirement was reasonable, and there was adequate notice of the requirement on the registration forms. *Id.* at 829-30.

#### ***Colorado Common Cause v. Davidson*, No. 04CV7709, 2004 WL 2360485, at \*1 (Colo. Dist. Ct. Oct. 18, 2004).**

In this case, the validity of three Colorado statutory provisions was challenged. The laws (1) required all in-person voters to show identification (not just first-time registrants); (2) provided that votes cast in the wrong precinct would not be counted; and (3) provided that

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provisional ballots would not be counted if the voter applied for an absentee ballot. 2004 WL 2360485, at \*1. The plaintiffs also challenged the provisions under HAVA. The identification provision allowed nearly all forms of acceptable identification under HAVA. *Id.* at \*6.

The challenge to the identification requirement failed under both challenges. The Court interpreted HAVA as not intended to preempt state laws and as permitting states to be more strict than, but not inconsistent with, HAVA. *Id.* at \*10. The Court felt that the purpose of both laws was the same, to reduce voter fraud, and thus, both laws could coexist. As to the Constitutional claim, both equal protection and substantive due process, the Court felt that preventing voter fraud, which is impossible to remedy once a vote is cast, is a compelling interest, and the Court also felt that a voter identification requirement for all voters, with many types of acceptable identification, was only marginally more intrusive than HAVA. *Id.* at 12. The Court also found no improper discrimination between voters. *Id.* Thus, the provision was upheld.

***McKay v. Thompson*, 226 F.3d 752 (6th Cir. 2000).**

The Sixth Circuit ruled that the Privacy Act, the National Voter Registration Act, Substantive Due Process, the Privileges and Immunities Clauses (Fourteenth Amendment & Article IV), and the First Amendment right to free exercise do not prohibit requiring disclosure of social security numbers as a precondition to voter registration.

The Privacy Act, Section 7, mandates that it is unlawful for a government to deny a right or privilege because of a citizen's refusal to disclose his social security number, unless the disclosure was required for a system established prior to 1975. 226 F.3d at 755 (citing Privacy Act of 1974, Pub. L. No. 93-579 (1974)). Since Tennessee required social security numbers for voter registration since 1972, his challenge was rejected. 226 F.3d at 755. Second, the NVRA only permits requiring the minimum amount of information necessary to prevent duplicate voter registration and to determine eligibility. *Id.* at 755-56 (citing 42 U.S.C. §1973gg-3(c)(2)(B)). The Court rejected this challenge because the NVRA does not specifically forbid the use of social security numbers, and the Privacy Act, a more specific statute, grandfathered their use if prior to 1975. 226 F.3d at 756.

Finally, the plaintiff's constitutional claims were all rejected. His substantive due process claim was rejected because internal receipt and use of social security numbers does not burden the fundamental right to vote. *Id.* The free exercise challenge, based on the Bible's supposed prohibition of universal identifiers, was rejected because the law was generally applicable and not directed at particular religious practices. *Id.* The Privileges and Immunities Clause claim was rejected because the Clause does not apply to citizens of the state. *Id.* The Fourteenth Amendment Privileges and Immunities claim, based on the right to vote as unique to U.S. citizenship, was rejected because the Clause provides no protection where Congress has authorized the infringement. *Id.*

***Kemp v. Tucker*, 396 F. Supp. 737 (M.D. Pa. 1975), *aff'd*, 423 U.S. 803.**

A statute was upheld, which required name, occupation, address, sex, race, height, hair color, eye color, and date of birth to be recorded on the voter registration card and allowed registration officials to reject an incomplete application. 396 F. Supp. at 738. Claims were alleged under the Fourteenth Amendment's Equal Protection Clause, the Fifteenth Amendment, and the Voting Rights Act.

As to the Fourteenth and Fifteenth Amendment claims, the Court reasoned that preventing voter fraud is a compelling goal, and identification provisions are "an essential means of achieving the goal." *Id.* at 739. The Court also rejected the equal protection claim because the statutes did not create a distinction at all. *Id.* at 740 n.3. Since race is just one of

several characteristics required, the Court found that it was intended for preventing voter fraud, not some other motive. *Id.* at 740. As to the VRA, the Court rejected the claim that it added race as a qualification for voting as frivolous. *Id.* As to a Fifteenth Amendment claim that it abridged the right to vote on account of race, the Court also made a distinction between rejecting a voter application because of race and rejecting an application because of failure to answer all relevant questions to assist in preventing voter fraud. *Id.* The statute was upheld.

***Perez v. Rhiddlehoover*, 186 So. 2d 686 (La. Ct. App. 1966).**

A voter registration requirement was challenged and upheld. The statute stated that date of birth, place of birth, mother's first or maiden name, color of eyes, sex, race, occupation, and whether owner, tenant or boarder must appear on the registration. 186 So.2d at 690. This information was required for identification of voters, especially when voters had the same name, to prevent duplicate voting. It was challenged under the Voting Rights Act of 1965 Section 4(a) which prohibits denying the right to vote for failure to comply with a "test or device." The Court felt that this requirement was not a test or device for discrimination because it applied equally. *Id.* at 691. The Court also determined that it was not in conflict with the Fifteenth Amendment either. *Id.*

***Friendly House, et al. v. Janet Napolitano et al.*, CV 04-649 TUC DCB**

On November 30, 2004, the Mexican American Legal Defense and Educational Fund (MALDEF) filed suit seeking to halt the implementation of Proposition 200. . Proposition 200 created a number of legal requirements to ensure that public benefits are not available to illegal immigrants. In particular, Proposition 200 requires that a person attempting to register to vote provide one of six specific forms of proof of United States citizenship. Compl. 12-13. Also, any person attempting to vote must present either one form of photo identification or two forms of non-photo identification. *Id.* at 13.

The lawsuit alleges two violations that directly relate to the voting identification restrictions. First, the lawsuit alleges a violation of the Twenty-Fourth and Fourteenth amendments in that a voter must pay a poll tax by spending money to purchase the required identification. *Id.* at 20. Second, the lawsuit alleges violation of the Voting Rights Act. *Id.* at 21. The lawsuit was recently dismissed by the 9th Circuit Court of Appeals for a lack of standing. The Circuit Court found that there was no injury-in-fact, meaning that once an injury occurs the suit will likely be refiled. Additionally, it should be noted that the voter identification issue is only a part of the lawsuit, and much of the focus has been on other aspects of Proposition 200.

### **Current Litigation Concerning Voter ID Issues<sup>17</sup>**

Litigation is filled with uncertainty. Litigation stemming from newly passed voter identification requirements will continue into the foreseeable future. Lawsuits are currently pending over voter identification requirements in Georgia and Indiana. Other states, such as Ohio, are considering new identification requirements that could lead to further litigation. The Georgia lawsuit has already succeeded in getting a preliminary injunction against the law in question, which will likely galvanize interested parties in other states to pursue similar litigation. Of course, if the injunction is eventually overturned at the appellate level it could have a similar chilling affect on future litigation.

This summary major litigation pending in Georgia and Indiana includes a brief assessment of the likelihood of success:

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<sup>17</sup> As of January 2, 2006

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### Georgia (*Common Cause/Georgia v. Billups*):

On September 19, 2005, Common Cause of Georgia, in conjunction with several other non-profit organizations, filed suit in Federal District Court against the Georgia Secretary of State and other election officials, challenging the constitutionality of Georgia's new voter identification requirements. The new law requires all voters attempting to cast a ballot in person to present a valid form of photographic identification. O.C.G.A. § 21-2-417. A voter that is unable to provide proper identification is given a provisional ballot. However, that provisional ballot will be counted only if the voter is able to subsequently present valid identification within two days of the election. *Id.*

The lawsuit alleges five separate violations of state and federal law. First, the complaint alleges that the identification requirements infringe on the right to vote guaranteed in the Georgia constitution (Compl. 32)<sup>18</sup>. In addition, the Plaintiffs claim violations of the Federal Civil Rights Act and Voting Rights Act. (Compl. 36,38). Finally, the lawsuit alleges violations of the Fourteenth and Twenty-Fourth amendments to the U.S. Constitution. The complaint claims that the ID requirements constitute an "undue burden" on the right to vote, in violation of the Equal Protection Clause of the Fourteenth Amendment (Compl. 34). The ID requirement does not apply to most absentee voters, and thus the requirement is also over-broad and not narrowly tailored to address the stated purpose of preventing voter fraud (Compl. 34). The complaint further alleges that the cost of obtaining a photo ID constitutes a poll tax, in violation of the Twenty-Fourth Amendment, and that the cost is also a violation of the Fourteenth Amendment because it applies to voters who choose to vote in person, and not to those who vote absentee (Compl. 34,35).

On October 18, 2005, the District Court granted the Plaintiff's motion for a preliminary injunction, enjoining the application of the new identification requirements. In granting the injunction, the court held that both federal constitutional claims had a substantial likelihood of succeeding on the merits at trial (Prelim. Inj. 96, 104). The court also held that, while the two federal statutory claims were plausible, they both lacked sufficient evidence at the time to have a substantial likelihood of success. (Prelim. Inj. 109,111,116). Finally, the court held that the Georgia constitutional claim would be barred by the Eleventh Amendment to the U.S. Constitution. (Prelim. Inj. 77).

The Defendants appealed the motion for preliminary injunction to the Eleventh Circuit, and oral argument is scheduled for March 1, 2006. In addition, some news reports have claimed that the Georgia legislature is considering re-visiting the ID requirements in light of the on-going litigation.<sup>19</sup> As for the merits, in granting the preliminary injunction the District Court has already signaled its belief that the federal constitutional claims are likely meritorious. The Eleventh Circuit may have a different view, but for now the case looks to have a reasonable chance of success.

### Indiana (*Indiana Democratic Party v. Rokita* and *Crawford v. Marion County Election Board*):

The Indiana lawsuit is similar to its Georgia counterpart in content, though not in status. In Indiana separate lawsuits, now joined, were filed by the state Democratic Party and the

<sup>18</sup> Litigation documents are available at the Election Law @ Moritz website.  
<http://moritzlaw.osu.edu/electionlaw/litigation/index.php>

<sup>19</sup> GA Legislature May Revisit Voter ID Law, State Net Capitol Journal, Dec. 19, 2005.

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Indiana Civil Liberties Union (ICLU). The Democratic Party's lawsuit is directed against the Indiana Secretary of State, while the ICLU's lawsuit involves the Marion County Board of Elections and the State of Indiana. Like Georgia, Indiana law also requires citizens voting in person to present some form of official photo identification. IC § 3-11-8-25.1. Voters unable to present identification are given a provisional ballot, which is counted if they are able to provide the required identification by Noon on the second Monday following the election. IC § 3-11.7-5-1. Unlike Georgia, Indiana provides state issued identification at no charge. However, there are costs involved in the process, including transportation to the Bureau of Motor Vehicles, and payment for documents such as birth certificates, which are needed to obtain the ID. (Second Am. Compl. 6).

The Democratic Party's complaint raises Fourteenth Amendment claims similar to those in the Georgia lawsuit, including concerns about substantially burdening the right to vote, the enactment of a de-facto poll tax from the costs indirectly associated with obtaining ID, and the lack of applicability to voters who cast an absentee ballot. (Second Am. Compl. 6-9). In addition, the complaint alleges that the substantial burden placed on the right to vote violates the First Amendment protection of expressive or symbolic speech, as well as the freedom of association as applied to Democratic primary elections. (Second Am. Compl. 9-10). Finally, the complaint alleges violations of the Voting Rights Act, National Voter Registration Act, and the Help America Vote Act (Second Am. Compl. 10-11). The ICLU's complaint alleges many of the same violations, but also includes claims of a violation of Indiana's constitutional guarantee of a free and equal election system. (Compl. 15)

The case is currently in the pre-trial phase, with both sides awaiting decisions on their respective motions for summary judgment.<sup>20</sup> The likelihood of success is bolstered by the fact that the Fourteenth amendment constitutional claims have already been found persuasive by at least one other Federal District Court. However, the Indiana law is notably different than its Georgia counterpart in that it provides free identification. While the plaintiffs make a solid argument that related costs still amount to a poll-tax, it is possible that the court could distinguish on this matter.

Unlike the Georgia case, the Indiana lawsuit also claims a violation of the Help America Vote Act. Although the claim is not completely clear, it seems as though the Plaintiffs are arguing that the Indiana statute requires more stringent identification than what is required by HAVA. 42 U.S.C. § 15483(b)(1)-(2). While this is true, it is unclear how this violates the statute. HAVA merely states that certain voters unable to produce HAVA required identification be given a provisional ballot. *Id.* Indiana law meets this requirement. IC § 3-11-8-25.1. Although Indiana law requires more stringent identification for counting the provisional ballot, HAVA leaves these decisions to state law. 42 U.S.C. § 15482(a).

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<sup>20</sup> According to an AP article, the Plaintiffs filed some type of brief on December 21—however it is not yet up on the Moritz website and I am unsure how to access it otherwise.

## APPENDIX

### Annotated Bibliography on Voter Identification Issues

#### Law Journals

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- George W. Grayson, *Registering and Identifying Voters: What the United States Can Learn From Mexico*, 3 ELECTION L.J. 513 (2004).
  - Benefits of US adopting Mexican system of identifying voters and voter registration
- Robert A. Pastor, *Improving the U.S. Electoral System: Lessons from Canada and Mexico*, 3 ELECTION L.J. 584 (2004).
  - Discusses HAVA, problems of 2000 election, discusses registration & identification
- Brian Kim, *Recent Development: Help America Vote Act*, 40 HARV. J. ON LEGIS. 579 (Summer 2003).
  - Discussion of HAVA requirements and voter ID, problems in 2000
- Robert L. McCurley, *Legislative Wrap-Up: Election Law Changes*, 64 ALA. LAW. 364, Nov. 2003.
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  - HAVA discussed
- Clifford B. Levine, Esq. & David J. Montgomery, Esq., *Post-Election Litigation in Pennsylvania*, 41 Duq. L. Rev. 153 (Fall, 2002).
  - Discusses challenging elections based on voter fraud & illegal votes
- Rebecca Barrett, *Election*, 18 GA. ST. U. L. REV. 114 (Fall 2001).
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- Robert A. Junell, Curtis L. Seidlits, Jr. & Glen G. Shuffler, *Consideration of Illegal Votes in Legislative Election Contests*, 28 Tex. Tech L. Rev. 1095 (1997).
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- John Victor Berry, *Take the Money and Run: Lame-Ducks "Quack" and Pass Voter Identification Provisions*, 74 U. DET. MERCY L. REV. 291 (Winter 1997).
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  - arguments against photo ID
- Deborah S. James, Note, *Voter Registration: A Restriction on the Fundamental Right to Vote*, 96 YALE L.J. 1615 (1987).
  - Discusses voter registration as a way to combat fraud & several different ways to do it

#### Historical articles:

- Gabrielle B. Ruda, Note, *Picture Perfect: A Critical Analysis of the Debate on the 2002 Help America Vote Act*, 31 FORDHAM URB. L.J. 235 (November 2003).
  - Lot of analysis on HAVA and voter ID
  - Little bit of historical
  - Arguments for and against certain types of voter ID laws

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- Kimberly C. Delk, *What Will it Take to Produce Greater American Voter Participation? Does Anyone Really Know?*, 2 LOY. J. PUB. INT. L. 133 (Spring 2001).
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  - Future: I-voting & e-registration – improvements in voter ID which would result

### Marginally relevant/limited discussion of Voter ID issues

- Jeanne S. Zaino & Jeffrey T. Zaino, *The Changing Landscape of Election Disputes*, 59 DISP. RESOL. J. 11 (Aug. – Oct. 2004).
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- Symposium, *Disability Law, Equality, and Difference: American Disability Law and the Civil Rights Model, Alabama Section*, 55 ALA. L. REV. 1167 (Summer 2004).
  - Discusses an AL law expanding exemptions to ID requirement if 2 poll workers identify them
- Bryan Mercurio, *Democracy in Decline: Can Internet Voting Save the Electoral Process*, 22 J. MARSHALL J. COMPUTER & INFO. L. 409 (Winter 2004).
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023951

Appendix



"Tom O'Neill"

03/29/2006 12:35 PM

To klynndyson@eac.gov

cc

bcc

Subject Census Bureau report on Voting and Registration

History:

✉ This message has been replied to.

Karen,

To the extent that the Census report you mention is based on the Current Population Survey data from November 2004, it is taken into account in the analysis of the effect of voter id requirements on turnout that is included in our report. The specific report, dated March 15 2006, was issued after our analysis was complete, and it is not cited in our research.

Tim Vercellotti is taking a look at the recent Census report and can comment on it generally at the briefing on April 3, if the subject comes up.

After our very useful discussion yesterday, I took a close look at Thor Hern's site at the American Center for Voter Rights. Its focus is on compiling reports of vote fraud, a topic we were asked to exclude from our research. It does include references to publications touching in part on voter identification, and the works Hern cites, most prominently the recent Harvard Law Review devoted to voting issues, is already reflected in our paper.

Tom O'Neill

023953





Paul DeGregorio/EAC/GOV  
03/26/2006 09:34 PM

To Karen Lynn-Dyson/EAC/GOV  
cc Thomas R. Wilkey/EAC/GOV, Amie J. Sherrill/EAC/GOV  
bcc

Subject Comments regarding the Eagleton Report on Voter ID

History:

⤠ This message has been replied to.

Karen,

As you requested, here are my comments regarding the final draft Eagleton report on Voter ID.

While the report is generally acceptable, I don't believe the current draft is ready to be released.

I found some parts of the report to be misleading and, at times, appearing biased to support a view that imposing ID requirements at the polls should be discouraged. As an example, on the first page they write about poll workers facing "long lines and limited time," suggesting that may be a problem for the workers to check ID. I am not sure what their point may be, as poll workers in states that require ID checking will still have to do so, no matter how long the voter lines they have. Many states and their polling places may not have long lines at the polls, and thus voters may not have the "limited time" suggested in the report. They don't support their suggestion with hard data on long voter lines and time limits on poll workers.

They selectively quote the Carter-Baker Commission study to suggest that "photographic ID requirements for in-person voting do little to address the problem of registration by mail" even though the Carter-Baker study actually promotes the idea of a photographic ID requirement at the polls. To be fair, they need to state that fact and the reasons why the Carter-Baker Commission comes to that conclusion.

Their table on page 7 indicates that Missouri's current ID requirement for first-time voters relies on HAVA requirements. It is my understanding that Missouri law requires that all voters must show some type of ID at the polls (therefore it should state "Provide ID" as they did in listing CO, CN and LA requirements).

On page 9 and on subsequent pages they make reference to "voting age population" (VAP) data issued by the Census Bureau. Is all the data they represent in their analysis based on the VAP or do they take into consideration the Citizen Voting Age Population (CVAP), which takes into account the number of non-citizens who may be included in the VAP? It is not clear from the report. You may remember that Kim Brace discussed the VAP vs. CVAP issue with us extensively, and he indicated that the CVAP figure is always the better one to use when analyzing Census Bureau data against voting data. He also said that many of the non-citizens included in the VAP figures tend to be Hispanic. And since the Eagleton study is making conclusions that indicate that more stringent ID requirements may tend to reduce Hispanic voter turnout, it becomes important to understand which figures Eagleton uses, as Kim told us that VAP figures do not compensate for the non-citizen Hispanic voters that are included at a higher rate in the VAP (because as Kim stated most of the non-citizen population in the USA tends to be Hispanic).

I would like to know if the new Census report data on the 2004 election released on March 15, 2006 changes any of their perspectives. <http://www.census.gov/prod/2006pubs/p20-556.pdf>

On page 12 they make reference to the CPS data and indicate that it reported a voter turnout rate of 89%, which is much higher than other data reported (which is also explained in their narrative). However, while the report indicates that the CPS data is "widely-accepted," it does make clear by whom. I think for credibility reasons they need more supporting language since there is a significant difference between a self-reported turnout of 89% and the reality of 63%.

Considering that the beginning of the document reveals a bias towards lesser ID requirements, I believe that it is important to highlight earlier in the report the conclusion found on page 14 that concerns by critics of voter identification requirements for African-American and elderly voters "are not borne out by the results." This will provide at least some balance to the reader.

023954

On page 20 they indicate they lack good data on why voters must cast their ballots provisionally. I thought that our Election Day Survey captured some of that data.

It appears that a preponderance of their citations are from organizations or groups that support liberal positions on election issues, or take selective information from reports to support a more liberal interpretation of views on voter ID issues. Examples would include: Carter-Baker on page 1; Tova Wang on page 4; Carter-Baker on page 4; Brennan Center page 20. While many of published articles cited on pages 30 and 31 provide relatively neutral information, those that appear to take positions (read from the description of the articles) appear to favor a liberal position on most ID issues. I would have hoped they would have provided a more balanced approach. I don't see conservative writers, such as Thor Hearne, of the American Center for Voting Rights, quoted or cited once in the report. Mr. Hearne has testified before Congress and has had several articles that address voter identification issues.

I was pleased that they cited (on page 5) a recent March 15, 2006 article from the Arizona Republic that indicated that their stricter voter ID law went smoothly in its first use.

They might want to be aware (and perhaps mention) that the recommendation from Edward Foley cited on the bottom of page 21 was actually used in Haiti's recent February 7, 2006 presidential election. In addition to each voter being provided a picture ID by the election commission, that same picture was found next to the voters' name on the voter rolls that were used at the polling places. Perhaps they want to contact Scott Lansell of IFES for confirmation. The picture ID project for Haiti's election was financed and implemented by the Organization for American States (OAS). I believe turnout for that election was over 60% of those eligible.

Please let me know if you or anyone from Eagleton has questions regarding these comments. Thanks.

Paul DeGregorio  
Chairman  
US Election Assistance Commission  
1225 New York Ave, NW  
Suite 1100  
Washington, DC 20005  
1-866-747-1471 toll-free  
202-566-3100  
202-566-3127 (FAX)  
pdegregorio@eac.gov  
www.eac.gov



"Tom O'Neill"

03/24/2006 04:25 PM

To klynndyson@eac.gov

cc

bcc

Subject RE: Eagleton/Moritz February Report

Thanks, Karen. We have our regular team meeting scheduled for Tuesday afternoon. If we could have the comments by then, it would be most convenient.

Enjoy the weekend.

Tom O'Neill

-----Original Message-----

**From:** klynndyson@eac.gov [mailto:klynndyson@eac.gov]

**Sent:** Friday, March 24, 2006 10:50 AM

**To:** John.Weingart@rutgers.edu

**Cc:** [redacted]

**Subject:** Re: Eagleton/Moritz February Report

Just wanted to let you know that I have asked the Commissioners to provide me feedback on your report by COB today.

I will assemble their comments and pass them on to you by early next week at the latest.

Regards-

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

023956



"John Weingart"  
<john.weingart@rutgers.edu>

03/21/2006 11:45 AM

Please respond to  
john.weingart@rutgers.edu

To klynndyson@eac.gov

cc "Tom O'Neill" <[REDACTED]>

bcc

Subject Re: Eagleton/MoritzVoter ID Report

History:

✉ This message has been replied to and forwarded.

Karen - Here is a reply to your question. Sorry not to have gotten it to you more quickly.

There are a couple of reasons why we used the CPS. Most importantly, it is a survey of individual voters, as opposed to election officials. The CPS allows us to make inferences about individual-level characteristics (such as the age, race, education, and income of each registered voter who responded to the survey), and how those characteristics combine with voter ID requirements to influence turnout. Also, the sample size is large, allowing for reliable analysis of sub-populations (just Hispanic voters, for example). Because of those two factors, most of the scholarly studies of voter turnout and the institutional and individual-level factors that go into turnout use the CPS.

The EAC also might ask why we collected our own aggregate data as opposed to using the results of the Election Day survey. We could provide greater detail if needed, but, in brief, the EAC Election Day Survey draws data from the jurisdiction that handles elections. In many states that is the county, but in the New England states the EAC Election Day Survey uses towns as its unit of analysis. Our aggregate data attempts to match voter turnout data to Census data, which we have gathered at the county level.

Conceivably, we could have gone through and matched Census data to towns for the New England states, but that would have been very time-consuming. Moreover, it would also have posed a problem with the statistical analysis of the aggregate data, which assumes a two-level statistical model with counties as the first level and states as the second level. Inserting a third level of towns just for the New England states would require that each town in each county be coded with vote totals and Census data for each. That would take months.

Let me know if you need additional information or would like to discuss.

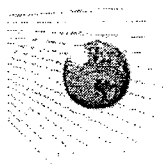
Thanks, John

klynndyson@eac.gov wrote:

>  
> Quick question-  
>  
> What was Eagleton's thinking behind using CPS data rather than EAC's  
> Election Day Survey for the Voter ID report?  
>  
> Thanks  
>  
> Karen Lynn-Dyson  
> Research Manager  
> U.S. Election Assistance Commission

023957

> 1225 New York Avenue , NW Suite 1100  
> Washington, DC 20005  
> tel:202-566-3123



Paul DeGregorio/EAC/GOV

03/17/2006 04:46 PM

To Karen Lynn-Dyson/EAC/GOV@EAC

cc Thomas R. Wilkey/EAC/GOV

bcc

Subject Re: Voter ID Paper --Final Draft

History:

This message has been replied to.

Karen,

Are we allowed to make comments on this paper in which they might consider changes --or is this the final version that we are to "accept" as is?

Paul

Sent from my BlackBerry Wireless Handheld

Karen Lynn-Dyson

From: Karen Lynn-Dyson

Sent: 03/16/2006 08:57 AM

To: Paul DeGregorio; Raymundo Martinez; Gracia Hillman; Donetta Davidson

Cc: Thomas Wilkey; Juliet Thompson-Hodgkins; Amie Sherrill; Adam Ambrogio; Sheila Banks; Elieen Collver

Subject: Fw: Voter ID Paper --Final Draft

Commissioners-

Attached please find a copy of the draft Voter ID best practices paper which Eagleton submitted to me last evening.

I will confer with Tom regarding when you would like this put on your Commissioner meeting agenda.

Regards-

Karen Lynn-Dyson

Research Manager

U.S. Election Assistance Commission

1225 New York Avenue, NW Suite 1100

Washington, DC 20005

tel:202-566-3123

----- Forwarded by Karen Lynn-Dyson/EAC/GOV on 03/16/2006 08:47 AM -----



"Tom O'Neill"

<[REDACTED]>

03/15/2006 08:21 PM

To klynndyson@eac.gov

cc "Tim Vercellotti" <tim.vercellotti@rutgers.edu>, arapp@rci.rutgers.edu, davander@eden.rutgers.edu, dlinky@rci.rutgers.edu, ireed@rutgers.edu, joharris@eden.rutgers.edu, john.weingart@rutgers.edu, rmandel@rci.rutgers.edu, "Johanna Dobrich" <jdobrich@eden.rutgers.edu>, tokaji.1@osu.edu, foley.33@osu.edu, lauracw@columbus.rr.com

Subject Voter ID Paper --Final Draft

023959

Karen,

Attached is the final draft of the Voter ID paper, with recommendations for the EAC to consider promulgating as best practices. Two appendices are included as part of the draft and a third, the statistical analysis of the effects of different voter ID requirements on turnout, is attached separately to this email.

We look forward to discussing this final draft with you and with the commissioners on April 3. I'll be preparing a Powerpoint presentation for that meeting. Any guidance you can give me later this month on particular questions that briefing should address would be appreciated.

The Moritz-Eagleton team will be meeting next Tuesday at 9:30 a.m.. If you have preliminary comments you would like us to consider, that meeting would be a most convenient occasion to discuss them.

Tom O'Neill



ReportFinalDraft.doc

023960

\* THE "FILE" BELOW IS AN  
IMAGE (PICTURE). NO ATTACHMENT  
IS ASSOCIATED W/ THIS EMAIL  
MESSAGE.

\* SEE 3/15/2006 MESSAGE FROM

Re: Voter ID Paper --Final Draft - Lotus Notes

03/17/2006 04:46 PM

To: Karen Lynn-Dyson/EAC/GOV@EAC  
cc: Thomas R. Wilkey/EAC/GOV  
Subject: Re: Voter ID Paper --Final Draft

History: This message has been replied to

Picture Properties

Source: [in-line image]  
Text Wrap: ☐ Don't wrap, align baseline  
Scaling (%): Width 100 Height 100 Reset  
Alternate Text:  
Caption: Display caption Below image  
Hotspots: Number 0 Add hotspot

Karen,  
Attached is the Voter ID paper, with  
practice included as part of  
different turnout, is attach  
We look forward to your final draft with y  
Powerpoint meeting. Any guid  
briefing appreciated.  
The Mon meeting next Tuesday at 9:30 a.m.. If you have preliminary comments you would  
like us to could be a most convenient occasion to discuss them.  
Tom O'

ReportFinalDraft.doc

Body of message

EAC Office

Start | Re: Voter ID Pap... | ~0911707.pdf | Microsoft PowerPoint | Re





"John Weingart"  
<Johnwein@rci.rutgers.edu>

03/16/2006 10:49 AM

Please respond to  
John.Weingart@rutgers.edu

To klynndyson@eac.gov

cc [REDACTED]

bcc

Subject Eagleton/Moritz February Report

History:

✉ This message has been replied to and forwarded.

Karen - I am attaching our monthly report for February. Please let me know if it raises any questions or if you need any additional information. I look forward to seeing you in a few weeks. John

--  
John Weingart, Associate Director  
Eagleton Institute of Politics  
(732) 932-9384, x.290



EACProgressReportFebruary06.doc

023962



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# EAGLETON INSTITUTE OF POLITICS

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*Contract to Provide Research Assistance to the EAC For  
the Development of Voluntary Guidance on Provisional  
Voting and Voter Identification Procedures*

**MONTHLY PROGRESS REPORT**  
**February 2006**

For  
**UNITED STATES ELECTION ASSISTANCE COMMISSION**  
1225 New York Avenue N.W., Suite - 1100  
Washington, DC 20005

March 15, 2006

**Prepared by:**  
Eagleton Institute of Politics  
Rutgers, The State University of New Jersey  
191 Ryders Lane  
New Brunswick, NJ 08901-8557

023966

## OUTLINE

- Introduction
- Provisional Voting
  - Task 3.7
  - Task 3.8
- Voter Identification Requirements
  - Task 3.10
  - Task 3.11
- Project Management
  - Task 3.1
- Financial Report

## INTRODUCTION

This report describes our progress from February 1 through February 28, 2006. It includes brief descriptions of key tasks; progress made; challenges encountered or anticipated; milestones reached; and projections for work to be completed in the coming month.

In February we refined our analytic work on the effect of various voter ID regimes on turnout and benefited from the review of our draft analysis by the Peer Review Group. The PRG pointed out several areas where the analysis should be strengthened. Much of our time since that teleconference on February 22 has been devoted to undertaking the additional work along the lines suggested by the PRG's review.

We held a teleconference with EAC Executive Director Tim Wilkey and contract manager Karen Lynn-Dyson on February 28 to discuss the Commission's comments on the draft of the draft Provisional Ballot paper. As a result, we are now polishing the draft. In addition, at Mr. Wilkey's request, we are examining the effect of the different time periods established by the states for the evaluation of provisional ballots on the percentage of provisional ballots that end up being counted. As a result of the teleconference, a close out meeting on this contract has been set for April 3 at the EAC's offices in Washington.

We are meeting the schedule provided with the request for the no-cost extension granted last month..

This Monthly Progress Report is divided into 3 sections: Provisional Voting, Voter Identification Requirements, and Project Management. Each section references specific tasks described in paragraph 3 of the contract. The Financial Report will be sent separately by the Rutgers Division of Grant and Contract Accounting. Please direct questions or comments about this report to [REDACTED]

## **PROVISIONAL VOTING**

Tasks 3.4 – 3.9 in our contract relate to Provisional Voting. Task 3.4 was completed in August, and Tasks 3.5 and 3.6 were completed in November. We received comments on the November draft report in a teleconference on February 22 with EAC Executive Director Tom Wilkey and Contract Manager Karen Lynn-Dyson. We are now revising and polishing the draft in accord with many of the comments by the Commissioners. In addition, we are analyzing the effect of the different time periods for the evaluation of provisional ballots established by the states on the percentage of provisional ballots that end up being counted. Preliminary results suggest that longer time periods result in more ballots being counted. That finding will be incorporated into the revised, final draft report.

Eagleton's Project Director took part in the joint Brookings Institution – American Enterprise Institute conference on Provisional Voting in Washington on February 8.

### **Task 3.6: Prepare preliminary draft guidance document.**

The report and recommendations which were sent to the EAC on November 28, 2005 recommends against the adoption of a guidance document per se and advises that the EAC adopt its recommendations as best practices. The EAC has accepted that recommendation. Our final report will include recommendations for promulgation by the Commission as "Best Practices," but will not include a proposed "Guidance Document," referred to in Task 3.7 (revise the guidance document for publication) or 3.8 (arrange a public hearing on the draft guidance).

## **VOTER IDENTIFICATION REQUIREMENTS**

The contract lists 7 tasks (3.10 – 3.16) related to Voter Identification Requirements. The research on Voter ID requirements is proceeding concurrently with our work on the experience of Provisional Voting, which is now the principal focus of our research.

### **Task 3.10: Legislation, regulations, and litigation**

The research team at the Moritz College of Law has completed the collection and analysis of legislation, administrative procedures and litigation with regard to Voter Identification Requirements. The results of its work constitutes the compendium of legislation, administrative regulations, and case law called for under this task.

**Description:** The Moritz team has compiled statutes on Voter Identification, and has provided a summary analysis of its research, including litigation, included in the draft of the Voter ID paper that has now been reviewed by the Peer Review Group.

**Progress:** The review of current voter identification litigation nationwide is now included in the draft report.

**Work Plan:** In the remaining month of the project, Moritz and Eagleton will continue to work together to develop best practices in the area of voter identification, based on our combined research and the case law. work with the EAC to finalize our report on provisional voting.

### **RESEARCH EFFORTS**

We continue to examine and categorize voter registration forms across the states to see what forms of identification are requested from mail-in registrants in order to highlight how easily accessible states make information about voter identification.

### **VOTER ID AND TURNOUT ANALYSIS**

On February 22, the Peer Review Group reviewed the draft report on Voter ID issues, with a particular focus on the statistical analysis of the effects of different voter id requirements on turnout. We followed up that teleconference with further conversations with several members of the Peer Review Group. The PRG identified some problems with the analysis, and the bulk of our effort in the remainder of the month has been devoted to resolving the issues identified by the PRG. That work continues as this report is being written, and the resulting analysis appears to be clearer and more reliable than the previous draft.

**Description:** We have refined the database on the effects of state-level voter identification requirements on voter turnout at the county-level in the 2004 election. We have also used the Current Population Survey's reports on electoral participation in 2004 to evaluate the effect of voter ID requirements at the level of the individual voter. This analysis suggests that more stringent voter ID requirements reduce turnout by several percentage points.

**Progress:** The PRG review of our work has strengthened the analysis considerably. The results will be seen in the revised draft of our report on this topic, which is nearing completion as this report is being filed.

**Challenges:** The models we are using, while sophisticated, are difficult to run and interpret. The analyses are time-consuming. The PRG's counsel has assisted in meeting this challenge.

**Work Plan:** We will complete a draft of the Voter ID report for the EAC in March.

## **PROJECT MANAGEMENT**

### **PEER REVIEW GROUP**

**Description:** A feature of our proposal was the creation of a Peer Review Group (PRG). It reviews our research and methodology and provides valuable feedback and suggestions for the direction of our work.

**Progress:** With its meeting to review the Voter ID paper, the PRG has completed its work on this project.

**Challenges:** No new challenges were encountered.

### **COORDINATION AND INFORMATION MANAGEMENT**

Collecting and merging information and data from myriad sources is a demanding requirement of this research. We have developed two principal mechanisms to facilitate the analysis of the material collected or created in the project: an information system and an internal website for easy access to drafts and reports.

### **INFORMATION SYSTEM**

**Description:** The statutory data and reports prepared by the Moritz College of Law is being merged with the political and procedural data and analysis prepared by the Eagleton Institute of Politics to provide a cohesive final product to the EAC, which will include a compendium of case law and statutes regarding Provisional Voting and voter identification.

**Progress:** At this point in the research process, many documents are complete after a lengthy process of circulating drafts among team members. We have reorganized our system by separating final drafts from earlier versions of documents, discarding dated files contained in the Information System, and updating the system as a whole. Upon their completion, new documents continue to be added.

**Projections:** The entire project team continues to use the Information System which contains the above referenced research, in working toward the preparation for our final reports to the EAC.

## INTRANET

**Description:** All project team members have signed on to the Intranet site, and, regularly post drafts, completed materials and spreadsheets online for internal review. The Intranet facilitates the exchange of information and collaboration among project participants.

## **FINANCIAL REPORT**

A detail of expenses incurred from the project during the period January 1- February 28, 2006, will be sent in March under separate cover to Ms. Dianna Scott, Administrative Officer at the EAC.

The financial reporting for this project is supervised and prepared by the Division of Grant and Contract Accounting (DGCA) at Rutgers. Financial reporting on grant accounts is limited to actual expenses that have been incurred during the reporting period. The contact at DGCA is: Constance Bornheimer, (732) 932-0165, EXT. 2235.



"Tom O'Neill"

03/16/2006 10:27 AM

To klynndyson@eac.gov

cc

bcc

Subject RE: Voter ID Paper --Final Draft

History:

➡ This message has been forwarded.

Karen,

Glad the paper arrived. Sorry it was a bit later than promised, but we reworked the statistical analysis on the basis of some insightful suggestions by the Peer Review Group. . .that took a few extra days (and nights). Looking back at my email to you, I realize the full statistical analysis was not attached as it should have been. It is appendix to the paper that will be of interest to those who want the details of our methodology. It is attached to this email.

I will be away, without access to email, until late Monday afternoon, but if you need to, you can reach me by cell phone [REDACTED]

Tom O'Neill

-----Original Message-----

**From:** klynndyson@eac.gov [mailto:klynndyson@eac.gov]

**Sent:** Thursday, March 16, 2006 9:00 AM

**To:** [REDACTED]

**Subject:** Re: Voter ID Paper --Final Draft

Tom-

Thanks for getting this to me. I've forwarded it on to the Commissioners.

Will try to see if I can get feedback next week.

Regards-

K

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005



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**Analysis of Effects of Voter Identification Requirements on Turnout**  
**Tim Vercellotti**  
**Eagleton Institute of Politics**  
**Rutgers University**

**Introduction**

A key area of disagreement in the policy debate over voter identification requirements concerns how such requirements affect voter turnout. Opponents of voter identification laws argue that they constitute an institutional barrier to voting, particularly among the poor, African-Americans, Hispanics, the elderly and people with disabilities (Baxter and Galloway 2005, Electionline.org 2002, Jacobs 2005, Young 2006). This argument holds that voter identification requirements create an extra demand on voters, and thus may discourage some of them from participating in elections. Further, critics argue that requiring voters to produce some form of government-issued photo identification on Election Day is more demanding than requiring, for example, that they state their names at the polling place because of the various steps needed to procure a photo identification card. Supporters of voter identification requirements, on the other hand, argue that the requirements are necessary to combat voter fraud, safeguard the integrity of the electoral process, and engender faith in the electoral process among citizens (Young 2006).

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This report examines the potential variation in turnout rates based on the type of voter identification requirement in place in each state on Election Day 2004. It draws on two sets of data – aggregate turnout data at the county level for each state, as compiled by the Eagleton Institute of Politics, and individual-level survey data included in the November 2004 Current Population Survey conducted by the U.S. Census Bureau. Classification of voter identification requirements comes from a review of state statutes conducted by the Moritz College of Law at the Ohio State University.

**Types of voter identification requirements**

Each state is classified as having one of five types of identification requirements in place on Election Day 2004. Upon arrival at polling places, voters had to either: state their names (nine states); sign their names (13 states and the District of Columbia); match their signature to a signature on file with the local election board (eight states); provide a form of identification that did not necessarily include a photo (15 states); or provide a photo identification (five states).<sup>1</sup> It was then possible to code the states according to these requirements, and test the assumption that voter identification requirements would pose an increasingly demanding requirement in this order: stating one's name, signing one's name, matching one's signature to a signature on file, providing a form of identification, and providing a form of photo identification.

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But election laws in numerous states offer exceptions to these requirements if individuals lack the necessary form of identification. Laws in those states set a minimum standard that a voter must meet in order to vote using a regular ballot (as opposed to a provisional ballot). Thus

<sup>1</sup> Oregon conducts elections entirely by mail. Voters sign their mail-in ballots, and election officials match the signatures to signatures on file. For the purposes of this analysis, Oregon is classified as a state that requires a signature match.

it is also possible to categorize states based on the minimum requirement for voting with a regular ballot. In 2004 the categories were somewhat different compared to the maximum requirement, in that none of the states required photo identification as a minimum standard for voting with a regular ballot. Four states, however, required voters to swear an affidavit as to their identity (Florida, Indiana, Louisiana, and North Dakota). The five categories for minimum requirements were: state name (12 states), sign name (14 states and the District of Columbia), match one's signature to a signature on file (six states), provide a non-photo identification (14 states), or swear an affidavit (four states). This analysis treats the array of minimum identification requirements also in terms of increasing demand on the voter: state name, sign name, match signature, provide non-photo identification, and, given the potential legal consequences for providing false information, swearing an affidavit.

### Analysis of aggregate data

If one treats maximum voter identification requirements as an ordinal variable, with photo identification as the most demanding requirement, one finds some statistical support for the premise that as the level of required proof increases, turnout declines. Averaging across counties in each state, statewide turnout is negatively correlated with voter identification requirements ( $r = -.21$ ,  $p < .0001$ ). In considering the array of minimum requirements, with affidavit as the most demanding requirement, voter identification also is negatively correlated with turnout ( $r = -.16$ ,  $p < .0001$ ). Breaking down the turnout rates by type of requirement reveals in greater detail the relationship between voter identification requirements and voter turnout.

[Table 1 here]

Differences in voter turnout at the state level in 2004 varied based on voter identification requirements.<sup>2</sup> Taking into account the maximum requirements, an average of 63.1 percent of the voting age population turned out in states that required voters to state their names, compared to 57.3 percent in states that required photo identification. A similar trend emerged when considering minimum requirements. Sixty-one percent of the voting age population turned out in states requiring voters to state their names, compared to 58.7 percent in states that required an affidavit from voters. While the trend is not perfectly linear, there is a general movement toward lower turnout as requirements tend toward requiring greater levels of proof.

Voter identification requirements alone, however, do not determine voter turnout. Multivariate models that take into account other predictors of turnout can place the effects of voter identification in a more accurate context. I estimated the effects of voter identification requirements in multivariate models that also took into account the electoral context in 2004 and demographic characteristics of the population in each county. To capture electoral context I included whether the county was in a presidential battleground state (any state in which the

<sup>2</sup> Voter turnout is defined here as the percentage of the adult voting-age population that voted in November 2004, based on county vote totals reported by the states and U.S. Census population projections for the counties from 2003. McDonald and Popkin (2001) contend that using the voting-age population to calculate turnout understates turnout for a number of reasons. They point out that voting-age population estimates include adults who are ineligible to vote (such as convicted felons), and the estimates overlook eligible citizens living overseas. While estimates of the voting-eligible population are available at the state level, I was unable to find such estimates for individual counties, which provide the unit of analysis for the aggregate data analyzed here.

margin of victory for the winning candidate was five percent or less), and whether the county was in a state with a competitive race for governor and/or the U.S. Senate (also using the threshold of a margin of victory of five percent or less). Drawing from U.S. Census projections for 2003, I included the percentage of the voting-age population in each county that was Hispanic or African-American to control for ethnicity and race. I controlled for age using the 2003 Census projection for the percentage of county residents age 65 and older, and I controlled for socioeconomic status by including the percentage of individuals who fell below the poverty line in each county in the 2000 Census.

I estimated a series of random intercept models to account for the likelihood that data from counties were correlated within each state (for further explanation of random intercept and other multilevel models, see Bryk and Raudenbush 1992, Luke 2004, Singer 1998).<sup>3</sup> The dependent variable in each model was voter turnout at the county level, with turnout calculated as the percentage of the voting-age population that voted in the 2004 election.

[Table 2 here]

Turning first to an analysis using the maximum identification requirements, those requirements had a small and negative effect on turnout in 2004 controlling for electoral context and demographic factors. Both contextual factors (whether the county was in a state that was a battleground state and whether that state had a competitive race for governor and/or U.S. Senate) increased voter turnout. As the percentage of senior citizens in the county increased, so did turnout. The percentage of African-Americans in the county had no effect, but the percentage of Hispanic adults exerted a negative effect on voter turnout, as did the percentage of individuals living below the poverty line.

I then sought to test the hypothesis that voter identification requirements dampen turnout among minorities and the poor, a claim voiced by some critics of the requirements. To test this idea I incorporated a series of interactions between the maximum voter identification requirements and the percentage of African-Americans, Hispanics, and poor individuals in the counties. The interaction involving African-Americans was not significant, but those involving Hispanics and poor individuals were significant.<sup>4</sup> Thus voter identification requirements have a greater effect for Hispanics and those living below the poverty line. A chi-square test of the difference in the deviance for each model (represented by -2 log likelihood in Table 2), shows that the model with interactions provides a better fit to the data ( $p = 0.0003$ ).

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I also estimated the effects of the minimum voter identification requirements holding constant the effects of electoral context and the demographic variables.

<sup>3</sup> The data analyses provided evidence that there was, indeed, a clustering of data within each state. The intraclass correlation, bounded by 0 and 1, measures the variation between the states. A random intercept model using only the intercept as a predictor generated an intraclass correlation of .40, indicating considerable variation between the states.

<sup>4</sup> The interactions are labeled in Tables 2 and 3 as VID\*African-American, VID\*Hispanic, and VID\*Poverty. To calculate the effects of voter identification requirements for a specific group, one must add the estimates for voter identification, the group, and the interaction. Doing so for Hispanic adults results in an estimate of -0.36 [-0.04 (voter id) - 0.38 (Hispanic) + 0.06 (voter id X Hispanic)].

[Table 3 here]

The effects of the minimum requirements are not statistically significant ( $p = 0.15$ ). The battleground state variable continues to exert a positive influence on turnout, while the presence of a competitive race for governor and/or U.S. Senate has no statistically significant effect. As in the maximum identification requirements models, as the percentage of the population that is Hispanic or poor increases, turnout declines. As the percentage of elderly increases, so does turnout. The proportion of African-Americans in the population does not affect turnout. Adding interactive effects to the model results in a statistically significant and negative effect of minimum voter identification requirements on turnout. But one must interpret this estimate with caution. A chi-square test for the difference in fit between the two models shows no significant difference ( $p = 0.08$ ), and thus no improvement to the fit when adding the interactions between voter identification requirements and the percentages of the county that is Hispanic or lives below the poverty line.

Analysis of the aggregate data at the county level generates some support for the hypothesis that as the burden of voter identification requirements increases, turnout declines, at least in the case of the maximum requirements. This is particularly so for counties with concentrations of Hispanic residents or individuals who live below the poverty line. But aggregate data cannot fully capture the individual demographic factors that may figure into the decision to turn out to vote. For example, previous research has found that education is a powerful determinant of turnout (Wolfinger and Rosenstone 1980, but see also Nagler 1991). Married individuals also are more likely to vote than those who are not married (Alvarez and Ansolabehere 2002; Alvarez, Nagler and Wilson 2004; Fisher, Kenny, and Morton 1993). To fully explore the effects of voter identification requirements on turnout, it is important to examine individual-level data as well.

#### Individual-level analysis

Individual-level turnout data exists in the November 2004 Current Population Survey conducted by the U.S. Census Bureau. The Census Bureau conducts the CPS monthly to measure unemployment and other workforce data, but the bureau adds a battery of voter participation questions to the November survey in even-numbered years to coincide with either a presidential or midterm-Congressional election.

One of the advantages of the CPS is the sheer size of the sample. The survey's Voting and Registration Supplement consisted of interviews, either by telephone or in person, with 96,452 respondents.<sup>5</sup> The large sample size permits analyses of smaller groups, such as Black or Hispanic voters or voters with less than a high school education. The analyses reported here are based on reports from self-described registered voters. I omitted those who said they were not registered to vote. I also excluded those who said they cast absentee ballots because the

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<sup>5</sup> It is important to note that the Census Bureau allows respondents to answer on behalf of themselves and others in the household during the interview. While proxy reporting of voter turnout raises the possibility of inaccurate reports concerning whether another member of the household voted, follow-up interviews with those for whom a proxy report had been given in the November 1984 CPS showed 99 percent agreement between the proxy report and the information given by the follow-up respondent (U.S. Census Bureau 1990).

identification requirements for absentee ballots may differ from those required when one votes in person. In addition, I eliminated from the sample respondents who said they were not U.S. citizens.

It is important to note here that the voter turnout rate for the CPS sample is much higher than the turnout rates presented in the aggregate data analysis. The U.S. Census Bureau reported that 89 percent of registered voters in the CPS sample said they voted (U.S. Census Bureau 2005). Turnout among the voting-age population was 58 percent in 2004, according to the aggregate data analysis. The difference is a result of several factors. One factor consists of the different denominators in calculating the turnout rate – registered voters versus the much larger voting-age population. Also, previous research has shown that, generally speaking, some survey respondents overstate their incidence of voting. Researchers speculate that over-reports may be due to the social desirability that accompanies saying one has done his or her civic duty, or a reluctance to appear outside the mainstream of American political culture (U.S. Census Bureau 1990). It is also possible that voting is an indication of a level of civic engagement that predisposes voters to agree to complete surveys at a higher rate than non-voters (Flanigan and Zingale 2002). Hence the voter turnout rates reported in the CPS tend to be much higher than the actual turnout rate for the nation (Flanigan and Zingale 2002). Even with this caveat, however, the CPS serves as a widely accepted source of data on voting behavior.

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The dependent variable in these analyses is whether a respondent said he or she voted in the November 2004 election. In addition to the voter identification requirements, the models include two other state-level factors that might have influenced turnout in 2004: whether the state was considered a battleground state in the presidential election, and whether there was a competitive gubernatorial and/or U.S. Senate race in the state (see Alvarez and Ansolabehere 2002, Alvarez et al. 2004, and Kenny et al. 1993 for similar approaches). As in the aggregate analysis, the threshold that determined whether the state was a battleground state or had a competitive statewide race was a margin of victory of five percent or less. At the individual level, I controlled for gender, age in years, education, household income, and dummy variables representing whether a voter was Black/non-Hispanic, Hispanic, or another non-white race (with white/non-Hispanic voters as the omitted category for reference purposes). Drawing on previous research on voting behavior, I also controlled for whether an individual was employed, or at least a member of the workforce (as opposed to being a full-time student, a homemaker, or retired). Both employment and workforce membership have been shown to be positive predictors of turnout (see Mitchell and Wlezien 1995). Marital status, whether one is a native-born citizen and residential mobility also have emerged as significant predictors of turnout (Alvarez and Ansolabehere 2002, Alvarez et al. 2004, Kenney et al. 1993, Wolfinger and Rosenstone 1980). I included in the model variables for whether a respondent was married (coded 1 if yes, 0 otherwise), and whether one was a native-born citizen (coded 1 if yes, 0 otherwise). I measured residential mobility by coding for whether the respondent had moved to a new address in the six months prior to the interview (coded 1 if yes, 0 otherwise).

## Results

The dependent variable is whether a respondent said he or she voted in the November 2004 election (coded 1 for yes, 0 for no). I estimated models using probit analysis, and estimated robust standard errors to control for correlated error terms for observations from within the same state.

[Table 4 here]

The two models in Table 4 use either the maximum or minimum voter identification requirements in each state. The two models generate virtually identical results. Voter identification requirements exert a statistically significant, negative effect on whether survey respondents said they had voted in 2004. Of the other state factors, only the competitiveness of the presidential race had a significant effect on turnout. In terms of demographic influences, African-American voters were more likely than white voters to say they had cast a ballot, while those of other non-white races were less likely than white voters to say they had turned out. Hispanic voters were not statistically different from white voters in terms of reported turnout. Consistent with previous research, age, education, income, and marital status all were positive predictors of voting. Women also were more likely to say they voted than men. Those who had moved within six months before the interview were less likely to say they had voted.

While the probit models provide statistical support for the influence of voter identification requirements and other variables on turnout, probit coefficients do not lend themselves to intuitive interpretation. Another common approach in studies of election requirements is to examine how the predicted probability of voter turnout would vary as election requirements vary. I used the probit coefficients to calculate the predicted probability of voting at each level of voter identification requirements while holding all other independent variables in the models at their means.<sup>7</sup> I calculated the probabilities taking into account both maximum and minimum requirements, with photo identification serving as the most demanding of the maximum requirements and affidavits as the most demanding minimum requirement.

[Table 5 here]

Allowing the voter identification requirement to vary while holding constant all other variables in the model showed that the predicted probability of turnout ranged from 91.2 percent if all voters had to state their names to 88.7 percent if all voters had to provide photo identification under the maximum requirements. In other words, the probability of voting dropped with each level of voter identification requirement, with a total drop of 2.5 percent across the five types of identification. When taking into account the minimum requirement for identification, the probability showed a similar decline, with a slightly larger total drop of 3.3 percent.

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Among the key variables of interest in the debate over voter identification requirements are race, age, income, and education. Given the large sample size (54,973 registered voters), it was possible to break the sample into sub-samples along those demographic lines to explore

<sup>7</sup> In the case of dichotomous independent variables, holding them at their mean amounted to holding them at the percentage of the sample that was coded 1 for the variable (Long 1997).

variation in predicted probability by group. I disaggregated the sample by the variable of interest (such as race, for example), omitting that variable while I re-ran the probit model with the remaining predictors of voter turnout, including the voter identification requirements.<sup>8</sup> If the analysis showed that the voter identification requirements had a statistically significant effect on turnout, I used the probit coefficients from the model to calculate the predicted probability of voting for each group across the five requirements while holding the other variables in the model constant.

[Table 6 here]

Both the maximum and minimum identification requirements had negative and statistically significant effects for white voters. Allowing the requirements to vary from stating one's name to providing photo identification or an affidavit showed drops of 2.5 percent and 3.3 percent respectively in the predicted probability of voting. The identification requirements had no effect on the probability of African-Americans voting, but the minimum identification requirements had a comparatively sizable effect on voter turnout among Hispanics. The predicted probability of Hispanics voting ranged from 87 percent if stating one's name would be the required form of identification to 77.3 percent if a voter would have to provide an affidavit in order to vote, a difference of 9.7 percent.

The effects of voter identification requirements also varied by age, with the greatest variation occurring among voters ages 18 to 24.

[Table 7 here]

Voters in that age group had a predicted probability of 83.9 percent if the maximum requirement would be to state one's name, and the probability drops 8.9 percentage points if voters would have to provide photo identification. The range was from 83.1 percent to 75.4 percent under the minimum requirements. The gap in probability narrowed in older age groups (4.8 percent for the maximum requirements and 5.8 percent for the minimum requirements for those ages 25 to 44; 1.8 percent for the minimum requirements for those ages 45 to 64, and 2.4 percent for the minimum requirements for those ages 65 and older).

Variation also emerged along the lines of income, with the effects of voter identification requirements varying to a greater extent for voters in households below the poverty line compared to those living above the poverty line.<sup>9</sup>

[Table 8 here]

While the maximum set of requirements did not have a statistically significant effect for voters living below the poverty line, the minimum set of requirements had a significant and negative effect. The probability of voting was .784 for poor voters if they would have to identify

**Comment [o2]:** The turnout figures shown in the analysis of the aggregate data range of 57.3% turnout to 63.1% turnout. When using the individual data, based on self-reports, the turnout figures approach 90%. I think a couple of sentences explaining the difference in the data between the two different analyses would be helpful here, even for readers comfortable with the statistical techniques used.

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<sup>8</sup> See Nagler 1991 for a similar approach in analyzing the effects of registration closing dates broken down by education levels.

<sup>9</sup> I coded respondents as being above or below the U.S. Census Bureau's 2004 poverty line based on respondents' reported annual household income and size of the household.

themselves by giving their name, and the probability declined to .731 if they would have to provide an affidavit attesting to their identity. Both the maximum and minimum sets of requirements had a significant and negative effect on voters living above the poverty line, but the difference in probability across the effects was narrower (2.3 percent for the maximum requirements and 3.1 percent for the minimum requirements).

The effects of voter identification requirements varied across education levels as well, with those lowest in education demonstrating the widest variation in probabilities as identification requirements ranged from least to most demanding.

[Table 9 here]

Registered voters who had less than a high school education had a 77.5 percent probability of voting if the maximum requirement would be stating one's name, and a 70.8 percent probability if they would have to provide photo identification under the maximum requirement, a difference of 6.7 percent. The difference from the lowest to the highest requirement among the minimum requirements was 7.4 percent. The difference in probabilities ranged from 3.3 percent for the maximum requirements to 4.5 percent for the minimum requirements for voters with a high school diploma. The range of effects of voter identification requirements was smaller among those with higher levels of education (and non-existent for one category – voters with some college education).

### Discussion and conclusion

The results presented here provide evidence that as the level of demand associated with voter identification requirements increases, voter turnout declines. This point emerged from both the aggregate data and the individual-level data, although not always for both the maximum and minimum sets of requirements. The overall effect for all registered voters was fairly small, but even a slight decline in turnout has the potential to alter the outcome of a close election.

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The effects of voter identification requirements were more pronounced for specific subgroups. Hispanic voters and the poor appear to be less likely to vote if the level of required identification becomes more demanding, according to both the aggregate and the individual-level data. In the individual-level data, for Hispanic voters, the probability of voting dropped by 9.7 percent across the various levels of minimum identification requirements. Survey respondents living in poor households would be 5.3 percent less likely to vote as the requirements vary from stating one's name to attesting to one's identity in an affidavit.

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Effects of voter requirements also varied with education. Registered voters who had not graduated from high school would be 6.7 percent less likely to vote if the maximum requirement is photo identification as opposed to stating one's name. When considering the minimum requirements, those with less than a high school education would be 7.4 percent less likely to say they voted if the requirement was an affidavit as opposed to stating one's name. Age was also a key factor, with voters ages 18 to 24 being 7.7 percent to 8.9 percent less likely to vote as the requirements ranged from stating one's name to providing a photo identification or affidavit.

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Two concerns aired by critics of voter identification requirements were not borne out by the results. African-American voters did not appear to be affected by voter identification requirements, according to both the aggregate data and individual-level data analyses. Also, the elderly, while they would be slightly less likely to vote as requirements range from least to most demanding, would not necessarily be affected in the dramatic manner predicted by some opposed to photo identification requirements in particular.

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In examining the effects of voter identification requirements on turnout, there is still much to learn. The data examined in this project could not capture the dynamics of how identification requirements might lower turnout. If these requirements dampen turnout, is it because individuals are aware of the requirements and stay away from the polls because they cannot or do not want to meet the requirements?<sup>10</sup> Or, do the requirements result in some voters being turned away when they cannot meet the requirements on Election Day? The CPS data do not include measures that can answer these questions, pointing up the need for collection of additional data. Knowing more about the "on the ground" experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements. Such knowledge also could help in designing training for poll workers, to handle questions about, and potential disputes over, voter identification requirements.

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<sup>10</sup> The individual-level data offer some insight here. If advance knowledge of the voter identification requirements were to dampen turnout, it is reasonable to expect that advance knowledge of those requirements also could discourage some individuals from registering to vote. I ran the same probit models using voter registration as the dependent variable (coded 1 if the respondent said he or she was registered, and 0 if the respondent was not registered). Neither the maximum nor minimum array of voter identification requirements had a statistically significant effect on the probability that a survey respondent was registered to vote.

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<b>Table 1 – Variation in 2004 State Turnout Based on Voter Identification Requirements</b>			
<b>Maximum Requirement</b>		<b>Minimum Requirement</b>	
<b>Voter Identification Required in the States</b>	<b>Mean Voter Turnout for States in that Category</b>	<b>Voter Identification Required in the States</b>	<b>Mean Voter Turnout for States in that Category</b>
<b>State Name</b>	63.1 %	<b>State Name</b>	61.3 %
<b>Sign Name</b>	58.6 %	<b>Sign Name</b>	60.4 %
<b>Match Signature</b>	62.1 %	<b>Match Signature</b>	59.2 %
<b>Provide Non-Photo ID</b>	57.8 %	<b>Provide Non-Photo ID</b>	57.6 %
<b>Provide Photo ID</b>	57.3 %	<b>Swear Affidavit</b>	58.7 %
<b>Average Turnout for All States</b>	59.6 %		

**Table 2. Predictors of 2004 turnout at the county level taking into account maximum voter identification requirements**

Variable	Basic Model		Model with Interactions	
	Unstandardized Estimate	Standard Error	Unstandardized Estimate	Standard Error
Intercept	0.64	0.01	0.70	0.02
Voter ID requirements	-0.02**	0.004	-0.04**	0.005
Battleground State	0.04*	0.02	0.04*	0.02
Competitive Senate/Governor's Race	0.04*	0.02	0.04*	0.02
% Age 65 and Older	0.50**	0.03	0.51**	0.03
% African-American	0.02	0.01	0.04	0.04
% Hispanic	-0.17**	0.01	-0.38**	0.05
% Below poverty line	-0.01**	0.0002	-0.01**	0.001
VID * African-American	----	----	-0.004	0.01
VID * Hispanic	----	----	0.06**	0.01
VID * Poverty	----	----	0.001**	0.0002
-2 Log Likelihood	-8234.5		-8253.5	
Coefficients are restricted maximum likelihood estimates. N = 3,112. * p < .05 ** p < .01 (two-tailed tests)				

**Table 3. Predictors of 2004 turnout at the county level taking into account minimum voter identification requirements**

Variable	Basic Model		Model with Interactions	
	Unstandardized Estimate	Standard Error	Unstandardized Estimate	Standard Error
Intercept	0.62	0.01	0.66	0.02
Voter ID requirements	-0.008	0.005	-0.02**	0.006
Battleground State	0.04**	0.01	0.04*	0.02
Competitive Senate/Governor's Race	0.03	0.02	0.03	0.02
% Age 65 and Older	0.50**	0.03	0.49**	0.03
% African-American	0.02	0.01	0.02	0.03
% Hispanic	-0.17**	0.01	-0.37**	0.05
% Below poverty line	-0.01**	0.0003	-0.01**	0.001
VID * African-American	----	----	-0.004	0.01
VID * Hispanic	----	----	0.06**	0.01
VID * Poverty	----	----	0.001**	0.0002
-2 Log Likelihood	-8222.7		-8229.4	

Coefficients are restricted maximum likelihood estimates. N = 3,112. \*  $p < .05$  \*\*  $p < .01$  (two-tailed tests)

**Table 4. Probit model of voter turnout.**

	Maximum requirements		Minimum requirements	
Variable	Unstandardized Estimate	Standard Error	Unstandardized Estimate	Standard error
<b>Voter ID requirements</b>	-0.04*	0.01	-0.05**	0.01
<b>Hispanic</b>	-0.06	0.05	-0.05	0.05
<b>Black</b>	0.22**	0.04	0.22**	0.04
<b>Other race</b>	-0.23**	0.04	-0.23**	0.04
<b>Age in years</b>	0.01**	0.001	0.01**	0.001
<b>Education</b>	0.12**	0.005	0.11**	0.005
<b>Household income</b>	0.03**	0.003	0.03**	0.003
<b>Married</b>	0.20**	0.02	0.20**	0.02
<b>Female</b>	0.09**	0.01	0.09**	0.01
<b>Battleground state</b>	0.18**	0.04	0.19**	0.04
<b>Competitive race</b>	0.05	0.05	0.05	0.05
<b>Employed</b>	0.05	0.04	0.05	0.04
<b>Member of workforce</b>	-0.04	0.05	-0.04	0.05
<b>Native-born citizen</b>	0.03	0.04	0.04	0.05
<b>Moved within past 6 months</b>	-0.27**	0.03	-0.27**	0.03
<b>Constant</b>	-4.48**	0.20	-4.46**	0.20
<b>Pseudo-R-Squared</b>	0.09		0.09	

Notes:

N = 54,973 registered voters

p &lt; .05\*\* p &lt; .01\*\* (two-tailed tests)

Models were estimated with robust standard errors to correct for correlated error terms within each state.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.

023984

**Table 5. Predicted probability of voter turnout – full model**

	Maximum requirement	Minimum requirement
State name	0.912	0.911
Sign name	0.906	0.903
Match signature	0.900	0.895
Non-photo ID	0.894	0.887
Photo ID	0.887	----
Affidavit	----	0.878
Total difference from lowest to highest	0.025	0.033
N	54,973	
Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant.		
Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.		



**Table 6. Predicted probability of voter turnout – White and Hispanic voters**

	White voters		Hispanic voters
	Maximum requirement	Minimum requirement	Minimum requirement
State name	0.920	0.922	0.870
Sign name	0.915	0.915	0.849
Match signature	0.909	0.907	0.826
Non-photo ID	0.902	0.899	0.800
Photo ID	0.895	----	----
Affidavit	----	0.890	0.773
Total difference from lowest to highest	0.025	0.032	0.097
N	44,760		2,860
Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum voter identification requirements were not a significant predictor of voting for Hispanic voters. Maximum and minimum voter identification requirements were not a significant predictor for African-American voters.			
Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.			

Table 7. Predicted probability of voter turnout – Age groups						
	18 - 24		25 - 44		45 - 64	65 and older
	Maximum requirements	Minimum requirements	Maximum requirements	Minimum requirements	Minimum requirements	Minimum requirements
State name	0.839	0.831	0.831	0.831	0.936	0.916
Sign name	0.819	0.814	0.820	0.817	0.932	0.910
Match signature	0.797	0.759	0.808	0.803	0.927	0.904
Non-photo ID	0.774	0.775	0.796	0.788	0.923	0.898
Photo ID	0.750	----	0.783	----	----	----
Affidavit	----	0.754	----	0.773	0.918	0.892
Total difference -- lowest to highest	0.089	0.077	0.048	0.058	0.018	0.024
N	5,065		20,066		20,758	9,084
Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum voter identification requirements were not a significant predictor of voting for voters ages 45 to 64 and 65 and older.						
Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.						

**Comment [o3]:** Can you add something to this footnote to once again clarify the difference between the very high turnout figures derived from the CPS respondents self-reports and actual measures of turnout which tend to be in the 50% -- 65% range.

**Table 8. Predicted probability of voter turnout – Voters above and below the poverty line**

	<b>Voters above the poverty line</b>		<b>Voters below the poverty line</b>
	<b>Maximum requirement</b>	<b>Minimum requirement</b>	<b>Minimum requirement</b>
<b>State name</b>	0.920	0.922	0.784
<b>Sign name</b>	0.915	0.915	0.772
<b>Match signature</b>	0.909	0.907	0.758
<b>Non-photo ID</b>	0.903	0.899	0.745
<b>Photo ID</b>	0.897	----	----
<b>Affidavit</b>	----	0.891	0.731
<b>Total difference from lowest to highest</b>	0.023	0.031	0.053
<b>N</b>	49,935		5,038

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum voter identification requirements were not a significant predictor of voting for voters who were below the poverty line.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.

**Table 9. Predicted probability of voter turnout – By education**

	<b>Less than high school</b>		<b>High school</b>		<b>College</b>		<b>Graduate school</b>	
	<b>Maximum requirement</b>	<b>Minimum requirement</b>	<b>Maximum requirement</b>	<b>Minimum requirement</b>	<b>Maximum requirement</b>	<b>Minimum requirement</b>	<b>Maximum requirement</b>	<b>Minimum requirement</b>
<b>State name</b>	0.775	0.779	0.866	0.869	0.960	0.959	0.977	0.979
<b>Sign name</b>	0.759	0.762	0.858	0.859	0.956	0.954	0.973	0.973
<b>Match signature</b>	0.743	0.743	0.850	0.848	0.951	0.950	0.968	0.967
<b>Non-photo ID</b>	0.725	0.724	0.842	0.836	0.945	0.945	0.963	0.959
<b>Photo ID</b>	0.708	----	0.833	----	0.939	----	0.957	----
<b>Affidavit</b>	-----	0.705	----	0.824	----	0.940	-----	0.950
<b>Total difference -- lowest to highest</b>	0.067	0.074	0.033	0.045	0.021	0.019	0.020	0.029
<b>N</b>	4,903		16,361		11,017		5,739	

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum and minimum voter identification requirements were not a significant predictor of voting for those with some college education.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.

Aletha  
Barrington/CONTRACTOR/EA  
C/GOV

05/04/2006 04:36 PM

To berinsky@mit.edu, johnathan.eagleton@univofarizona.edu,  
leighley@univofarizona.edu, to: [REDACTED]

cc Karen Lynn-Dyson/EAC/GOV@EAC

bcc

Subject Conference Call/ Eagleton Institute

Good afternoon everyone,

This is to inform you of a time set-up for the conference call on May 11, 2006 regarding Eagleton Institute/Voter Identification Research Project: it will be at 11:30 am, if everyone is available for this time then its a go, if not please contact me at your earliest convenience.

Thanks!

Aletha Barrington  
Contracts Assistant  
U.S. Election Assistance Commission  
(202) 566-2209 (office)  
(202) 566-3128 (fax)

023990



"Adam Berinsky"  
<berinsky@MIT.EDU>  
05/03/2006 05:31 PM

To klynndyson@eac.gov  
cc  
bcc

Subject Re: Review of EAC research on Voter Identification

History: This message has been replied to.

I just got your phone message. I will still do the review, but I should note that I won't be able to do a full 90 minute phone call on the 11th -- perhaps we could schedule 30 minutes or so for me to be on the phone call.

At 05:36 PM 5/1/2006, you wrote:

Dr. Berinsky-

On behalf of the U.S. Election Assistance Commission (EAC), thank you in advance for agreeing to assist us with the review of research conducted by the Eagleton Institute of Politics on voter identification. By **Friday, May 5, 2006**, you will receive, in electronic form, the research paper and relevant data analysis which supports the paper's findings. Through this independent review by a small group of experts familiar with elections data and research we are seeking feedback on:

- The research methodology which was used to support the paper's conclusions
- The specific statistical applications which were used to analyze the data and arrive at various conclusions

If there are alternate methodological and statistical approaches to analyzing the data on voter identification, and if there is other data on voter identification that you think should have been included in the analysis, please be certain to note this in your comments.

On **May 11, 2006** EAC will conduct a 60-90 minute phone call with key Eagleton Institute staff responsible for the research, members of Eagleton's peer review group and the EAC-identified reviewers who have been asked to consider the research. Through this dialogue EAC hopes to gather varying perspectives and insights on the research strategies and methods that were employed by Eagleton. As a result of this conversation, EAC anticipates that some revisions will be made to the Eagleton research paper. This paper is scheduled to be presented to EAC's Board of Advisors and Standards Boards in late May.

While we are unable to offer financial compensation for your review of this research we greatly appreciate your willingness to assist us with this important task. We believe that the research findings we will provide on voter identification are important and will most certainly be enhanced by your insights and expertise.

023991

Sincerely,

Karen Lynn-Dyson  
Research Director  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

Adam J. Berinsky  
Associate Professor  
Department of Political Science  
Massachusetts Institute of Technology  
77 Massachusetts Avenue  
Cambridge, MA 02139 E53-459  
Tel: (617) 253-8190  
Fax: (617) 258-6164  
E-mail: [berinsky@mit.edu](mailto:berinsky@mit.edu)  
Web Page: <http://web.mit.edu/berinsky/www/>



"Tom O'Neill"

05/03/2006 03:29 PM

To klynndyson@eac.gov

cc

bcc

Subject May 11 teleconference

Karen,

Do you have a time for the May 11 teleconference? We're working to arrange the participation of members of our Peer Review Group and that is the key missing piece of information.

Thanks,

Tom O'Neill

023993



Juliet E.  
Thompson-Hodgkins/EAC/GOV

05/01/2006 04:49 PM

To Karen Lynn-Dyson/EAC/GOV@EAC

\*cc Thomas R. Wilkey/EAC/GOV@EAC

bcc

Subject Re: E-mail to Voter ID peer reviewers

I am concerned about the statement that EAC policy precludes us paying them. It is an issue of correctly soliciting and entering into a contract for the procurement of services. Perhaps there is a better way to phrase this, or is it even necessary

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100  
Karen Lynn-Dyson/EAC/GOV

Karen Lynn-Dyson/EAC/GOV

05/01/2006 02:58 PM

To Thomas R. Wilkey/EAC/GOV@EAC, Juliet E.  
Thompson-Hodgkins/EAC/GOV@EAC

cc

Subject E-mail to Voter ID peer reviewers

Tom and Julie-

Please take a look at this draft e-mail and let me know if it captures all that it needs to.

Would like to get this out ASAP- appreciate your feedback..

Dear Jonathan Nagler  
Dear Jan Leighley  
Dear Adam Berinsky

On behalf of the U.S. Election Assistance Commission (EAC), thank you in advance for agreeing to assist us with the review of research conducted by the Eagleton Institute of Politics on voter identification. By **Friday, May 5, 2006**, you will receive, in electronic form, the research paper and relevant data analysis which supports the paper's findings. Through this independent review by a small group of experts familiar with elections data and research we are seeking feedback on:

- The research methodology which was used to support the paper's conclusions
- The specific statistical applications which were used to analyze the data and arrive at various conclusions

023994

If there are alternate methodological and statistical approaches to analyzing the data on voter identification, and if there is other data on voter identification that you think should have been included in the analysis, please be certain to note this in your comments.

On **May 11, 2006** EAC will conduct a 60-90 minute phone call with key Eagleton Institute staff responsible for the research, members of Eagleton's peer review group and the EAC-identified reviewers who have been asked to consider the research. Through this dialogue EAC hopes to gather varying perspectives and insights on the research strategies and methods that were employed by Eagleton. As a result of this conversation, EAC anticipates that some revisions will be made to the Eagleton research paper. This paper is scheduled to be presented to EAC's Board of Advisors and Standards Boards in late May.

While EAC agency policy does not allow us to provide you with financial compensation for your review of this research we greatly appreciate your willingness to assist us with this important task. We believe that the research findings we will provide on voter identification are important and will most certainly be enhanced by your insights and expertise.

Sincerely,

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

023995

Thomas R. Wilkey/EAC/GOV

05/01/2006 04:07 PM

To Karen Lynn-Dyson/EAC/GOV@EAC

cc

bcc

Subject Re: E-mail to Voter ID peer reviewers

Then we are good to good

-----  
Sent from my BlackBerry Wireless Handheld

Karen Lynn-Dyson

**From:** Karen Lynn-Dyson

**Sent:** 05/01/2006 03:03 PM

**To:** Thomas Wilkey

**Cc:** Juliet Thompson-Hodgkins

**Subject:** Re: E-mail to Voter ID peer reviewers

It's my understanding that Julie thinks we are " good to go" as long as we don't pay them.

Correct?

Karen Lynn-Dyson

Research Manager

U.S. Election Assistance Commission

1225 New York Avenue , NW Suite 1100

Washington, DC 20005

tel:202-566-3123

Thomas R. Wilkey/EAC/GOV

Thomas R. Wilkey/EAC/GOV

05/01/2006 03:00 PM

To Karen Lynn-Dyson/EAC/GOV@EAC, Juliet E.  
Thompson-Hodgkins/EAC/GOV

cc

Subject Re: E-mail to Voter ID peer reviewers

Did we resolve the contact issues on this?

-----  
Sent from my BlackBerry Wireless Handheld

Karen Lynn-Dyson

**From:** Karen Lynn-Dyson

**Sent:** 05/01/2006 02:58 PM

**To:** Thomas Wilkey; Juliet Thompson-Hodgkins

**Subject:** E-mail to Voter ID peer reviewers

Tom and Julie-

Please take a look at this draft e-mail and let me know if it captures all that it needs to.

023996

Would like to get this out ASAP- appreciate your feedback..

Dear Jonathan Nagler

Dear Jan Leighley

Dear Adam Berinsky

On behalf of the U.S. Election Assistance Commission (EAC), thank you in advance for agreeing to assist us with the review of research conducted by the Eagleton Institute of Politics on voter identification. By **Friday, May 5, 2006**, you will receive, in electronic form, the research paper and relevant data analysis which supports the paper's findings. Through this independent review by a small group of experts familiar with elections data and research we are seeking feedback on:

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- The specific statistical applications which were used to analyze the data and arrive at various conclusions

If there are alternate methodological and statistical approaches to analyzing the data on voter identification, and if there is other data on voter identification that you think should have been included in the analysis, please be certain to note this in your comments.

On **May 11, 2006** EAC will conduct a 60-90 minute phone call with key Eagleton Institute staff responsible for the research, members of Eagleton's peer review group and the EAC-identified reviewers who have been asked to consider the research. Through this dialogue EAC hopes to gather varying perspectives and insights on the research strategies and methods that were employed by Eagleton. As a result of this conversation, EAC anticipates that some revisions will be made to the Eagleton research paper. This paper is scheduled to be presented to EAC's Board of Advisors and Standards Boards in late May.

While EAC agency policy does not allow us to provide you with financial compensation for your review of this research we greatly appreciate your willingness to assist us with this important task. We believe that the research findings we will provide on voter identification are important and will most certainly be enhanced by your insights and expertise.

Sincerely,

023997

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123


Juliet E.  
Thompson-Hodgkins/EAC/GO  
V

05/01/2006 03:56 PM

To Karen Lynn-Dyson/EAC/GOV@EAC

cc Thomas R. Wilkey/EAC/GOV@EAC

bcc

Subject Re: E-mail to Voter ID peer reviewers 

As long as we don't pay them, there is no contract issue.

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

023999



"John Weingart"  
<john.weingart@rutgers.edu>

04/26/2006 04:19 PM

Please respond to  
john.weingart@rutgers.edu

To tnedzar@eac.gov

cc klynndyson@eac.gov

bcc

Subject Re: No-Cost Extension Request

Tamar - Do you know if this request can be approved by this Friday. If that is possible, it would greatly ease our internal path at Rutgers. Thanks, John

-- John Weingart, Associate Director  
Eagleton Institute of Politics  
(732) 932-9384, x.290

tnedzar@eac.gov wrote:

>  
> Mr. Weingart,  
>  
> Just sent the form again. Please let me know if you do not receive it  
> today.  
>  
> Thanks,  
>  
> Tamar Nedzar  
> Law Clerk  
> U.S. Election Assistance Commission  
> 1225 New York Avenue, NW Suite 1100  
> Washington, DC 20005  
> (202) 566-2377  
> http://www.eac.gov  
> TNedzar@eac.gov  
>  
>  
> \*"John Weingart" <john.weingart@rutgers.edu> \*  
>  
> 04/21/2006 04:47 PM  
> Please respond to  
> john.weingart@rutgers.edu  
>  
>  
>  
> To  
> tnedzar@eac.gov  
> cc  
>  
> Subject  
> Re: No-Cost Extension Request  
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>

024000

>  
>  
> Not yet received. Please send again with a cover sheet with my name to  
> (732) 932-6778. Thanks.  
>  
> -- John Weingart, Associate Director  
> Eagleton Institute of Politics  
> (732) 932-9384, x.290  
>  
>  
>  
>  
> tnedzar@eac.gov wrote:  
>  
> >  
> > Mr. Weingart,  
> >  
> > I just faxed the document we need you to sign before our Executive  
> > Director can approve the no-cost extension.  
> >  
> > Please call if you have any questions.  
> >  
> > Thank you,  
> >  
> > Tamar Nedzar  
> > Law Clerk  
> > U.S. Election Assistance Commission  
> > 1225 New York Avenue, NW Suite 1100  
> > Washington, DC 20005  
> > (202) 566-2377  
> > <http://www.eac.gov>  
> > [TNedzar@eac.gov](mailto:TNedzar@eac.gov)  
> >  
> >  
> > \*Karen Lynn-Dyson/EAC/GOV\*  
> >  
> > 04/21/2006 10:10 AM  
> >  
> >  
> > To  
> > john.weingart@rutgers.edu  
> > cc  
> > "Tom O'Neill" <[REDACTED]>  
> > Subject  
> > Re: No-Cost Extension RequestLink  
> >  
> <  
Notes:///85256FFC007A9D7C/38D46BF5E8F08834852564B500129B2C/CFBC950B4682EC0E862  
57157004C6064>  
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> >  
> > Thanks, John.  
> >

024001



> > I'm passing this on to our legal staff , who will be preparing the documents.

> > Will let you know if I need additional information and/or clarification.

> > Regards-

> > Karen Lynn-Dyson

> > Research Manager

> > U.S. Election Assistance Commission

> > 1225 New York Avenue , NW Suite 1100

> > Washington, DC 20005

> > tel:202-566-3123

> > \*

> > "John Weingart" <john.weingart@rutgers.edu> \*

> > 04/21/2006 09:52 AM

> > Please respond to

> > john.weingart@rutgers.edu

> > To

> > klynndyson@eac.gov

> > cc

> > "Tom O'Neill" <Tom\_O'Neill@eac.gov>

> > Subject

> > No-Cost Extension Request

> > Karen - We are requesting a no-cost extension on the EAC contract to the Eagleton Institute of Politics at Rutgers University to have the contract's concluding date move from March 31, 2006 to June 30, 2006. As I indicated earlier, it would be very helpful if we could receive approval of this request no later than April 28th.

> > This extension is necessary to enable the following activities:

> > 1. The EAC has informed us that it will assemble a panel of researchers the week of May 8th to review the Eagleton/Moritz draft background report on Voter Identification. The EAC wishes to supplement the review of this draft already conducted by the Peer Review Group called for in the contract. The Eagleton/Moritz research team, as well as at least some of the Peer Review Group will participate in the conference call or meeting of the EAC's reviewers;

> > 2. Eagleton/Moritz will revise the draft Voter Identification report based upon comments made by the two sets of reviewers, and distribute the revised report to the EAC and its Advisory Board in mid-May.

> > 3. Eagleton/Moritz will present its draft reports on Provisional Voting and Voter Identification to the EAC Advisory Board at its May 25th

024002



Tamar Nedzar/EAC/GOV  
04/21/2006 03:30 PM

To Karen Lynn-Dyson/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: No-Cost Extension Request

History: This message has been forwarded

Ooops. Here's the attachment.

Tamar Nedzar  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
(202) 566-2377  
<http://www.eac.gov>  
TNedzar@eac.gov



Rutgers Memo.rtf

----- Forwarded by Tamar Nedzar/EAC/GOV on 04/21/2006 03:28 PM -----

Tamar Nedzar/EAC/GOV  
04/21/2006 03:13 PM

To Karen Lynn-Dyson/EAC/GOV  
cc  
Subject Re: No-Cost Extension Request

Hey Karen,

Once John signs and faxes back the document, we need to get it to Tom with the memo to file (attached) for his signature. I believe that is all we need to do for the no-cost modification.

Thanks,

Tamar Nedzar  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
(202) 566-2377  
<http://www.eac.gov>  
TNedzar@eac.gov  
Karen Lynn-Dyson/EAC/GOV

Karen Lynn-Dyson/EAC/GOV  
04/21/2006 10:10 AM

To john.weingart@rutgers.edu  
cc "Tom O'Neill" <[REDACTED]@verizon.net>  
Subject Re: No-Cost Extension Request

024004



U.S. ELECTION ASSISTANCE COMMISSION  
1225 New York Ave. NW – Suite 1100  
Washington, DC 20005

To: File  
From: Tamar Nedzar, Law Clerk  
Date: April 21, 2006  
Re: No-Cost Extension to contract number E4014127 with the Eagleton  
Institute of Politics at Rutgers University

---

**Background:**

Contract E4014127 with the Eagleton Institute of Politics at Rutgers University (“contractor”) was originally scheduled to be concluded on March 31, 2006. The contract’s final products include a report on Voter Identification and a report on Provisional Voting. The contractor has vetted the reports with a Peer Review Group, pursuant to the terms of the contract.

**Justification for No-Cost Extension:**

The EAC wishes to supplement the contractor’s Peer Review of the reports by adding another review process with some of the EAC’s key stakeholders. The EAC proposes to assemble a panel of researchers during the week of May 8<sup>th</sup> to conduct the second review.

Following the second review, the contractor will revise its draft reports based on the comments it receives. The contractor will present its draft reports on Provisional Voting and Voter Identification to the EAC Advisory Board at its May 25<sup>th</sup> meeting in Washington, DC. The contractor will revise both draft reports, taking into account the EAC’s Advisory Board’s comments and submit the final reports to the EAC toward the end of June.

**Recommendation:**

The EAC recommends that contract E4014127 be modified at no cost to allow the contractor to complete their work by June 30, 2006.

024005

Thanks, John.

I'm passing this on to our legal staff , who will be preparing the documents.

Will let you know if I need additional information and/or clarification.

Regards-  
Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

"John Weingart" <john.weingart@rutgers.edu>



"John Weingart"  
<john.weingart@rutgers.edu>

04/21/2006 09:52 AM

Please respond to  
john.weingart@rutgers.edu

To klynndyson@eac.gov

cc "Tom O'Neill" <[REDACTED]>

Subject No-Cost Extension Request

Karen - We are requesting a no-cost extension on the EAC contract to the Eagleton Institute of Politics at Rutgers University to have the contract's concluding date move from March 31, 2006 to June 30, 2006. As I indicated earlier, it would be very helpful if we could receive approval of this request no later than April 28th.

This extension is necessary to enable the following activities:

1. The EAC has informed us that it will assemble a panel of researchers the week of May 8th to review the Eagleton/Moritz draft background report on Voter Identification. The EAC wishes to supplement the review of this draft already conducted by the Peer Review Group called for in the contract. The Eagleton/Moritz research team, as well as at least some of the Peer Review Group will participate in the conference call or meeting of the EAC's reviewers;
2. Eagleton/Moritz will revise the draft Voter Identification report based upon comments made by the two sets of reviewers, and distribute the revised report to the EAC and its Advisory Board in mid-May.
3. Eagleton/Moritz will present its draft reports on Provisional Voting and Voter Identification to the EAC Advisory Board at its May 25th meeting in Washington, D.C.;
4. Eagleton/Moritz will revise both draft reports to take into account comments made by the EAC Advisory Board, and submit printed final reports to the EAC before June 23rd. Eagleton/Moritz will also prepare a PowerPoint presentation for both reports.
5. Eagleton/Moritz will present both reports at the EAC public meeting

024006

in Washington, D.C. on June 23rd, thus concluding its work under this contract.

Please let me know if you need any additional information.

Thanks,

John

--

-- John Weingart, Associate Director  
Eagleton Institute of Politics  
(732) 932-9384, x.290

024007



"John Weingart"  
<john.weingart@rutgers.edu>

04/19/2006 05:25 PM

Please respond to  
john.weingart@rutgers.edu

To klynndyson@eac.gov

cc

bcc

Subject Re: No cost extension paperwork

History:

✉ This message has been replied to.

Karen - Great. Can the no-cost request just be in the form of an email from me to you or do you need something more formal?

-- John Weingart, Associate Director  
Eagleton Institute of Politics  
(732)932-9384, x.290

klynndyson@eac.gov wrote:

>  
> Hi John-  
>  
> As with the last no-cost extension request, I'll need a brief  
> memo/statement outlining why you are making the request for the  
> extension. Included in the narrative should be statement about which  
> tasks have not been completed and why.  
>  
> I'm pressing ahead with the timeline we discussed last week. I think  
> a May 5 teleconference may be too ambitious- I think it may be more  
> likely that we'll get peer review comments during the week of May 8.  
>  
> Other than that I think it's doable.  
>  
> Thanks, as always, for your work.  
>  
> Karen Lynn-Dyson  
> Research Manager  
> U.S. Election Assistance Commission  
> 1225 New York Avenue , NW Suite 1100  
> Washington, DC 20005  
> tel:202-566-3123  
>  
>  
>  
> \*"John Weingart" <john.weingart@rutgers.edu> \*  
>  
> 04/19/2006 11:48 AM  
> Please respond to  
> john.weingart@rutgers.edu  
>  
>  
>  
> To  
> klynndyson@eac.gov  
> cc  
>  
> Subject

024008

> Re: No cost extension paperwork

> Ok. It would be very helpful to us to get that done before the end of  
> April. When do you think you'll be able to get back to us about the  
> schedule for completing the project we discussed last week?

> -- John Weingart, Associate Director  
> Eagleton Institute of Politics  
> (732)932-9384, x.290

> klynndyson@eac.gov wrote:

> > John-

> > One of our law clerks, Tamar Nedzar, is working with me on the  
> > paperwork for your no-cost extension.

> > She will be in touch with you this week, to determine the additional  
> > information/documentation she may need to process a request for a  
> > no-cost extension through June 30, 2006.

> > Thanks

> > Karen Lynn-Dyson  
> > Research Manager  
> > U.S. Election Assistance Commission  
> > 1225 New York Avenue , NW Suite 1100  
> > Washington, DC 20005  
> > tel:202-566-3123

024009



Thomas R. Wilkey/EAC/GOV  
06/28/2005 08:55 AM

To Karen Lynn-Dyson/EAC/GOV@EAC  
cc  
bcc  
Subject RE: Peer Review Group

Thanks..I think this plan will work and this will allow us to set up a focus group of Election Officials and stakeholders who need to spend more time together anyway.

Tom

Karen Lynn-Dyson/EAC/GOV

Karen Lynn-Dyson/EAC/GOV  
06/27/2005 05:45 PM

To "Tom O'Neill" [REDACTED]  
cc  
Subject RE: Peer Review Group

Tom-

Had a very good review and discussion of the PRG at this morning's Commissioner meeting.

Also, the Commissioners have marked their calendars for a conference call with the Eagleton/Moritz team on July 12 at 9:30 AM.

Several concerns were raised about the composition of the PRG and, after some discussion, I indicated that Eagleton will provide the EAC with a revised participant list, and with a more detailed description of the PRG's mission, goals, objectives, workplan and timelines for accomplishing its work.

The Vice Chair is concerned that there is not sufficient conservative representation on the PRG. I would suggest the team do more research to identify well-recognized conservative academics to put on the Group.

Further, the Commissioners recommend a tiered process in which the PRG will prepare a "dispassionate" analysis of the issues and draw some tentative conclusions. This analysis and these conclusions will then be vetted with a defined/select group of local election officials, and then, with a defined/select group of advocacy organizations.

It was also suggested that a final round of focus group meetings be held with a cross-section of these election officials, advocates and academics for an overall interactive reaction to the analysis and recommendations.

Hope this helps clarify concerns; I look forward to sharing your revisions to the PRG with them.

Regards-

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005

024010



"Tom O'Neill"

07/13/2005 12:29 PM

To klynndyson@eac.gov

cc

bcc

Subject RE: Peer Review Group

Thank you, Karen.

Tom

Tom O'Neill

-----Original Message-----

**From:** klynndyson@eac.gov [mailto:klynndyson@eac.gov]

**Sent:** Wednesday, July 13, 2005 11:05 AM

**To:** tom\_oneill@verizon.net

**Cc:** cpaquette@eac.gov; twilkey@eac.gov

**Subject:** RE: Peer Review Group

Tom-

I will take up the matter of next steps with the Peer Review Group, with Tom Wilkey, the EAC Executive Director ASAP.

I will have an answer regarding the EAC's suggested next steps on how to proceed on this matter as quickly as possible.

Regards-

K

Karen Lynn-Dyson

Research Manager

U.S. Election Assistance Commission

1225 New York Avenue, NW Suite 1100

Washington, DC 20005

tel:202-566-3123

"Tom O'Neill"

024011

n.net>

07/12/2005 07:17  
PM

To: cpaquette@eac.gov  
cc: ccireed@rutgers.edu, john.weingart@rutgers.edu, klynndyson@eac.gov,  
lauracw@columbus.rr.com, foley.33@osu.edu, rmandel@rci.rutgers.edu  
Subject: RE: Peer Review Group

Carol,

I sent you the email on the Peer Review Group because you asked me to. When we discussed the issue in New York, you told me to send to you in writing our response to the Commission's suggestions for a new, more elaborate review process. I believe I copied Karen on that email.

Learning now, almost a week later, that you have taken no action is disheartening. As you know, our schedule is tight, and we need the counsel the Peer Review Group can provide. I hope, therefore, that Karen will take immediate action to resolve the situation so we can begin to recruit the review group in time to assure the quality of the resource design.

Tom O'Neill

-----Original Message-----

**From:** cpaquette@eac.gov [mailto:cpaquette@eac.gov]

**Sent:** Tuesday, July 12, 2005 6:37 PM

**To:** klynndyson@eac.gov

**Cc:** Foley, Ned; reed, ingrid; Weingart, John; Laura Williams; Mandel, Ruth; Tom O'Neill

**Subject:** Re: Peer Review Group

024012

Karen, Tom -

I am not taking any action on the email Tom sent a few days ago regarding the Peer Review Group because the Eagleton project is not my responsibility. As I indicated earlier to Karen, I didn't know why this was sent to me since Karen is the Project Manager. I endorse her comment below regarding the need for including her in all correspondence with anyone at the EAC regarding the project.

When I was the Interim Executive Director it was part of my job to stay on top of all EAC project work. I now have other responsibilities at the EAC, and while I am happy to continue involvement in other projects for continuity and transition purposes as needed, that needs to be very limited. My involvement with the Eagleton work has only been from the contracting perspective, and that is the only continuing role I have. Any substantive project activities have to be taken up with Karen.

Carol A. Paquette  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

Karen  
Lynn-Dys  
on/EAC/G  
OV

07/12/200  
5 05:08

PM

To "Tom O'Neill" [REDACTED]@GSAEXTERNAL

"Paquette, Carol" <cpaquette@eac.gov>, "Foley, Ned" <foley.33@osu.edu>, "reed, ingrid" <ireed@rutgers.edu>, "Weingart, John" <john.weingart@rutgers.edu>, "Laura Williams" <lauracw@columbus.rr.com>, "Mandel, Ruth" <rmandel@rci.rutgers.edu>

Subject: Re: Peer Review Group [Link](#)

Tom-

I trust you are in contact with Carol and Julie regarding the information on the Peer Review Group and the July 28 hearing at Cal/Tech that you have requested of them, respectively.

While the EAC is a small agency with relatively few reporting layers, I suggest that for all future

024013

items requiring feedback and decisions from the EAC, that you are certain to carbon copy me on all e-mails.

This will ensure, that as your primary point of contact, I have a record of all communication that has taken place between the contractor and the agency.

Thanks

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

"Tom  
O'Neill"  
<tom\_oneill  
@verizon.ne  
t>

07/08/2005

03:41 PM

To "Paquette, Carol" <cpaquette@eac.gov>  
cc "Laura Williams" <lauracw@columbus.rr.com>, "Weingart, John" <john.weingart@rutgers.edu>, "reed, ingrid" <ireed@rutgers.edu>, "Mandel, Ruth" <rmandel@rci.rutgers.edu>, "Lynn-Dyson, Karren" <klynndyson@eac.gov>, "Foley, Ned" <foley.33@osu.edu>  
Subject Peer Review Group

Carol,

After our discussion in New York, you asked me to put in writing our response to the EAC's suggestions for expanding the number and kinds of groups that would review and comment on our work. I hope after your review of this response, we will be able to quickly recruit a balanced Peer Review Group (PRG) and move ahead as the schedule in our work plan indicates. Attached is a revised list of the members we propose for appointment to the PRG. We will probably not be able to persuade all of them to serve, but the number and range of views included on the

024014

proposed list should ensure that the resulting group is well-balanced.

Tom

## **RESPONSE TO EAC RECOMMENDATIONS FOR ADDITIONAL REVIEW GROUPS**

### EAC's Recommendations for the PRG

Karen Lynn-Dyson reported this response from the EAC commissioners to our proposal for the composition of the PRG.

1. Not sufficient conservative representation on the PRG
2. Create a "tiered process" of review in which:
  - A. The PRG will prepare a dispassionate analysis of the issues and draw some tentative conclusions.
  - B. PRG's analysis would be vetted by a defined/select group of local election officials.
  - C. A defined/select group of advocacy organizations would review the comments of the local election officials
  - D. Empanel a final focus group of local election officials, advocates and academics for an overall, interactive reaction to the analysis and recommendations.

### Project Team Response

Creating three new committees to the review process to supplement the work of the Peer Review Group (PRG) is possible, but would add at least 8 weeks –and possibly 12 weeks-- to our completion of the guidance document on provisional voting. We believe this delay would risk limiting the value of this project for the 2006 election. In addition, the change would add at least \$30,000 to the cost of our work. (See the attached table showing the possible effect on our work plan, and note the optimistic assumptions such as the ability to hold a hearing the week after Christmas.). If the same groups were to be engaged in reviewing our work on Voter ID, the time for that work would also have to be stretched at a similar increased cost.

This additional cost and the added time might be worthwhile. . . if the new layers of review were to produce a consensus on how to strengthen the research, sharpen the analysis, and increase the relevance of the Guidance Document. Our team concluded, however, that additional review groups were unlikely to achieve these results.

### PRG focuses on quality of research

We believe that our research would be strengthened by a balanced Peer Review Group that will focus on the design of the research and our conduct of it. Based on the EAC's recommendation, we have revised the composition of the PRG to include additional, well-recognized authorities in the field whose perspective is generally agreed to be conservative.

The PRG will focus on the strength of the research design and the quality of our analysis, not on the politics of our recommendations for the guidance document. The PRG will critique the research design and suggest how to strengthen it. Members of the group will review the quality of our analysis so that we can fill holes and correct errors before we make policy recommendations to the EAC. The PRG may or may not meet as a group. The likelihood is that most comments will come in writing from individual members, most of whose schedules would not permit attendance at meetings. In any case, the PRG members will not gather around a table to come to consensus on the study's recommendations.

While using the PRG as a forum to reach consensus on the knotty issues involved does not appear practical, the EAC can benefit from the work of other groups in this regard. It is not

necessary for this project to duplicate the deliberative processes of the Carter-Baker Commission, the Century Foundation and the Election Center. The EAC itself as well as the project team can get the benefit of these reports without duplicating this "policy evaluation board" structure as part of this contract.

#### Project Team focuses on analysis and recommendations

Karen reported that the Commissioners believed that the PRG would "prepare a dispassionate analysis of the issues and draw some tentative conclusions." As we see it, the PRG will neither analyze data nor draw conclusions, tentative or otherwise. Its members will review and comment on how the Project Team has designed and carried out the research. Analysis, conclusions and recommendations are the responsibility of the Project Team. We have all seen in the preface to books or articles a sentence or two that read something like this, "The author thanks Mr. X, Ms. Y, and Dr. Z for their review and comment on the manuscript. Their analysis has strengthened the work, but they are in no way responsible for errors or for my conclusions." That is the way we think about the Peer Review Group.

In short, the PRG will help ensure that EAC's Guidance Document is founded on a solid base of data and analysis. The review and comment on the Preliminary Guidance Document by the EAC's Board of Advisors and Standards Board will provide participation by important stakeholder groups without the need for the other review committees. This Board is broad-based and represents a key stakeholder group. It also enjoys a significant advantage over a "defined/select" group we might empanel. Any group we define will be open to criticism or charges of bias by representatives of interest groups not represented.

The criticism and charges of bias might be tolerable, but only if we could expect consensus from the "defined/select" group we would appoint. We believe that consensus would be elusive. In empanelling a "defined/select" group, we would naturally look for balance and would appoint members to represent a point of view or an institutional interest. As representatives they would likely feel that they had little choice but to be strong advocates. They would have little incentive to compromise. Our research, as opposed to our policy recommendations, would be better served by the analysis of scholars than by the advocacy of interests.

#### Policy judgments

We regard the EAC itself as responsible for the policy judgments involved in shaping the Guidance Document. We plan, of course, to respond to the EAC's comments on our preliminary draft, so that the EAC's comments will shape the Preliminary Guidance Document before it is released for public comment. And further revision will follow the public hearing and comments. The EAC and individual Commissioners can always seek comment informally on our analysis or recommendations. That course appears to us preferable to the creation of a new, more elaborate review process.

Carol A. Paquette/EAC/GOV  
07/12/2005 07:49 PM

To Karen Lynn-Dyson/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: Peer Review Group

Karen -

Please see Tom's email below. I checked his previous email on the peer review group and you were copied. Maybe you didn't get this because of the email problem you were having. Anyhow, I'm not responding to his latest message, just letting it drop.

Carol A. Paquette  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov  
----- Forwarded by Carol A. Paquette/EAC/GOV on 07/12/2005 07:45 PM -----



"Tom O'Neill"  
[REDACTED] t>  
07/12/2005 07:17 PM

To cpaquette@eac.gov  
ireed@rutgers.edu, john.weingart@rutgers.edu,  
cc klynndyson@eac.gov, lauracw@columbus.rr.com,  
foley.33@osu.edu, rmandel@rci.rutgers.edu  
Subject RE: Peer Review Group

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Learning now, almost a week later, that you have taken no action is disheartening. As you know, our schedule is tight, and we need the counsel the Peer Review Group can provide. I hope, therefore, that Karen will take immediate action to resolve the situation so we can begin to recruit the review group in time to assure the quality of the resource design.

Tom O'Neill

-----Original Message-----

**From:** cpaquette@eac.gov [mailto:cpaquette@eac.gov]  
**Sent:** Tuesday, July 12, 2005 6:37 PM  
**To:** klynndyson@eac.gov  
**Cc:** Foley, Ned; reed, ingrid; Weingart, John; Laura Williams; Mandel, Ruth; Tom O'Neill  
**Subject:** Re: Peer Review Group

024017



Karen, Tom -

I am not taking any action on the email Tom sent a few days ago regarding the Peer Review Group because the Eagleton project is not my responsibility. As I indicated earlier to Karen, I didn't know why this was sent to me since Karen is the Project Manager. I endorse her comment below regarding the need for including her in all correspondence with anyone at the EAC regarding the project.

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Carol A. Paquette  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

Karen  
Lynn-Dyson/EAC  
/GOV

07/12/2005 05:08  
PM

To: "Tom O'Neill" <[REDACTED]>@GSAEXTERNAL  
"Paquette, Carol" <cpaquette@eac.gov>, "Foley, Ned" <foley.33@osu.edu>, "reed, ingrid"  
cc: <ireed@rutgers.edu>, "Weingart, John" <john.weingart@rutgers.edu>, "Laura Williams"  
<lauracw@columbus.rr.com>, "Mandel, Ruth" <rmandel@rci.rutgers.edu>  
Subject: Re: Peer Review Group [Link](#)

Tom-

I trust you are in contact with Carol and Julie regarding the information on the Peer Review Group and the July 28 hearing at Cal/Tech that you have requested of them, respectively.

While the EAC is a small agency with relatively few reporting layers, I suggest that for all future items requiring feedback and decisions from the EAC, that you are certain to carbon copy me on

024018

all e-mails.

This will ensure, that as your primary point of contact, I have a record of all communication that has taken place between the contractor and the agency.

Thanks

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

"Tom O'Neill"  
<tom\_oneill@verizon.net>

07/08/2005 03:41 PM

To "Paquette, Carol" <cpaquette@eac.gov>  
cc "Laura Williams" <lauracw@columbus.rr.com>, "Weingart, John"  
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Tom

**RESPONSE TO EAC RECOMMENDATIONS FOR ADDITIONAL REVIEW GROUPS**

024019

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